

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 2230

To amend the Indian Gaming Regulatory Act.

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## IN THE SENATE OF THE UNITED STATES

JUNE 23 (legislative day, JUNE 7), 1994

Mr. INOUE (for himself and Mr. McCAIN) introduced the following bill; which  
was read twice and referred to the Committee on Indian Affairs

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## A Bill

To amend the Indian Gaming Regulatory Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Indian Gaming Regu-  
5       latory Act Amendments Act of 1994”.

6       **SEC. 2. AMENDMENTS.**

7       The Indian Gaming Regulatory Act (25 U.S.C. 2701  
8       et seq.) is amended as follows:

9               (1) Section 2 of the Act (25 U.S.C. 2701) is  
10       amended to read as follows:

11       **“SEC. 2. FINDINGS REGARDING INDIAN GAMING.**

12       “The Congress finds that—

1           “(1) Indian tribal governments are engaged in  
2           the operation of gaming activities on Indian lands as  
3           a means of generating tribal governmental revenue  
4           and are licensing such activities;

5           “(2) clear Federal standards and regulations  
6           for the conduct of gaming on Indian lands will assist  
7           tribal governments in assuring the integrity of gam-  
8           ing activities conducted on Indian lands;

9           “(3) a principal goal of the United States’ Fed-  
10          eral-Indian policy is to promote tribal economic de-  
11          velopment, tribal self-sufficiency, and strong tribal  
12          government;

13          “(4) while Indian tribal governments have the  
14          right to regulate the operation of gaming activities  
15          on Indian lands if such gaming activities are not  
16          specifically prohibited by Federal law and are con-  
17          ducted within a State which does not prohibit such  
18          activities as a matter of criminal law and public pol-  
19          icy, the Congress has the authority to regulate the  
20          privilege of doing business in Indian country;

21          “(5) systems for the regulation of gaming ac-  
22          tivities on Indian lands should conform to federally-  
23          established minimum regulatory requirements;

24          “(6) the operation of gaming activities on In-  
25          dian lands has had a significant impact on com-

1       merce with foreign nations, among the several States  
2       and with the Indian tribes; and

3               “(7) the United States Constitution vests the  
4       Congress with the powers to ‘\* \* \* regulate Com-  
5       merce with foreign Nations, and among the several  
6       States, and with the Indian tribes \* \* \*’ and this  
7       Act is enacted in the exercise of those powers.”.

8               (2) Section 3 of the Act (25 U.S.C. 2702) is  
9       amended as follows:

10   **“SEC. 3. DECLARATION OF POLICY REGARDING INDIAN**  
11               **GAMING.**

12       “The purpose of this Act is—

13               “(1) to provide a statutory basis for the con-  
14       duct of gaming activities on Indian lands as a means  
15       of promoting tribal economic development, self-suffi-  
16       ciency, and strong tribal governments;

17               “(2) to provide a statutory basis for the regula-  
18       tion of gaming activities on Indian lands by an In-  
19       dian tribal government adequate to shield such ac-  
20       tivities from organized crime and other corrupting  
21       influences, to ensure that an Indian tribal govern-  
22       ment is the primary beneficiary of the operation of  
23       gaming activities, and to ensure that gaming is con-  
24       ducted fairly and honestly by both the operator and  
25       players; and

1           “(3) to declare that the establishment of inde-  
2           pendent Federal regulatory authority for the conduct  
3           of gaming activities on Indian lands, the establish-  
4           ment of Federal standards for the conduct of gam-  
5           ing activities on Indian lands, and the establishment  
6           of a National Indian Gaming Commission are nec-  
7           essary to address congressional concerns regarding  
8           the conduct of gaming activities on Indian lands and  
9           to protect such gaming as a means of generating  
10          tribal revenue.”.

11           (3) Section 4 of the Act (25 U.S.C. 2703) is  
12          amended as follows:

13       **“SEC. 4. DEFINITIONS.**

14           “For purposes of this Act:

15           “(1) The term ‘Attorney General’ means the  
16          Attorney General of the United States.

17           “(2) The term ‘banking game’ means any game  
18          of chance that is played with the house as a partici-  
19          pant in the game, where the house takes on all play-  
20          ers, collects from all losers, and pays all winners,  
21          and the house can win.

22           “(3) The term ‘Chairman’ means the Chairman  
23          of the National Indian Gaming Commission.

24           “(4) The term ‘Class I gaming’ means social  
25          games played solely for prizes of minimal value or

1 traditional forms of Indian gaming engaged in by in-  
2 dividuals as a part of, or in connection with, tribal  
3 ceremonies or celebrations.

4 “(5)(A) The term ‘Class II gaming’ means—

5 “(i) the game of chance commonly known  
6 as bingo or lotto (whether or not electronic,  
7 computer, of other technologic aids are used in  
8 connection therewith)—

9 “(I) which is played for prizes, includ-  
10 ing monetary prizes,

11 “(II) in which the holder of the card  
12 covers such numbers or designations when  
13 objects, similarly numbered or designated,  
14 are drawn or electronically determined, and

15 “(III) in which the game is won by  
16 the first person covering a previously des-  
17 ignated arrangement of numbers or des-  
18 ignations on such cards,

19 including, if played in the same location, pull-  
20 tabs, punch boards, tip jars, instant bingo, and  
21 other games similar to bingo, and

22 “(ii) card games that—

23 “(I) are explicitly authorized by the  
24 laws of the State, or

1           “(II) are not prohibited as a matter of  
2           State criminal law and are legally played  
3           at any location in the State, but only if  
4           such card games are played in conformity  
5           with those laws and regulations (if any) of  
6           the State regarding hours or periods of op-  
7           eration of such card games or limitations  
8           on wagers or pot sizes in such card games.

9           “(B) The term ‘Class II gaming’ does not in-  
10          clude—

11           “(i) any banking card games, including  
12          baccarat, chemin de fer, or blackjack (21) or

13           “(ii) gambling devices as defined in section  
14          1(a)(2) or section 1(a)(3) of the Act of January  
15          2, 1951 (15 U.S.C. 1171(a) (2) or (3)), or slot  
16          machines of any kind.

17           “(6) The term ‘Class III gaming’ means all  
18          forms of gaming that are not class I gaming or class  
19          II gaming.

20           “(7) The term ‘Commission’ means the Na-  
21          tional Indian Gaming Commission established pursu-  
22          ant to section 5 of this Act.

23           “(8) The term ‘compact’ means the regulatory  
24          regime for operating class III gaming entered into  
25          either by a tribe and the Secretary, or a tribe and

1 a State, published pursuant to section 10 of this  
2 Act, and includes procedures in lieu of a compact  
3 published by the Secretary prior to the effective date  
4 of the Indian Gaming Regulatory Act Amendments  
5 Act of 1994.

6 “(9) The term ‘electronic, computer, or other  
7 technologic aid’ means a device, such as a computer,  
8 telephone, cable, television, satellite, or bingo blower,  
9 which, when used—

10 “(A) is not a game of chance, a gambling  
11 device, or a slot machine;

12 “(B) merely assists a player or the playing  
13 of a game; and

14 “(C) is operated according to applicable  
15 Federal communications law.

16 “(10) The term ‘electronic or electromechanical  
17 facsimile’ means any gambling device as defined in  
18 section 1(a)(2) or section 1(a)(3) of the Act of Jan-  
19 uary 2, 1951 (15 U.S.C. 1171(a) (2) or (3)).

20 “(11) The term ‘gambling device’ means any  
21 gambling device as defined in section 1(a)(2) or sec-  
22 tion 1(a)(3) of the Act of January 2, 1951 (15  
23 U.S.C. 1171(a) (2) or (3)), including any electronic  
24 or electromechanical facsimile.

1           “(12) The term ‘gaming activity’ means a game  
2 of chance, whether electronic, electromechanical or  
3 otherwise, that is distinguished from another game  
4 of chance by its principal characteristics.

5           “(13) The term ‘gaming-related contract’  
6 means any agreement under which an Indian tribe  
7 or its agent procures gaming materials, supplies,  
8 equipment or services which are used in the conduct  
9 of a class II or class III gaming activity, or financ-  
10 ing contracts or agreements for any facility in which  
11 a gaming activity is to be conducted.

12           “(14) The term ‘gaming-related contractor’  
13 means any person, corporation, partnership or other  
14 entity entering into a gaming-related contract with  
15 an Indian tribe or its agent, including any person,  
16 corporation, partnership or other entity among  
17 which there is common ownership.

18           “(15) The term ‘gaming service industry’  
19 means any form of enterprise which provides goods  
20 or services which are used in conjunction with any  
21 class II or class III gaming activity, including, with-  
22 out limitation, travel services, security, gaming  
23 schools, manufacturers, distributors and servicers of  
24 gaming devices, garbage haulers, linen suppliers,  
25 maintenance and cleaning services, food and non-al-



1       cohol beverage purveyors and construction compa-  
2       nies.

3               “(16) The term, ‘key employee’ means any nat-  
4       ural person employed in a gaming operation licensed  
5       pursuant to this Act in a supervisory capacity or em-  
6       powered to make any discretionary decision with re-  
7       gard to the gaming operation, including, without  
8       limitation, pit bosses, shift bosses, credit executives,  
9       cashier supervisors, gaming facility managers and  
10      assistant managers, and managers or supervisors of  
11      security employees.

12              “(17) The term ‘lottery game’ means a scheme  
13      for the distribution of a prize by chance where mul-  
14      tiple players pay for the opportunity to win the prize  
15      and select a chance either (A) from a finite number  
16      of chances where the winning combinations are pre-  
17      determined but concealed prior to purchase and the  
18      selection of each choice depletes the number of  
19      chances remaining, or (B) where the winner or win-  
20      ners are determined by random selection after all en-  
21      tries are completed, including where a time limit for  
22      entry has passed, when a predetermined number of  
23      players have entered, or when a predetermined sum  
24      of money has been wagered.

1           “(18) The term ‘net revenues’ means gross rev-  
2           enues of an Indian gaming activity less amounts  
3           paid out as, or paid for, prizes and total operating  
4           expenses, excluding management fees.

5           “(19) The term ‘notify’ means the act of send-  
6           ing a notice in writing, delivered by certified mail,  
7           with receipt requested, to the chief executive officer,  
8           and the chief legal officer of a State or of an Indian  
9           tribe; and, for purposes of this Act, the date of noti-  
10          fication shall be the actual date of receipt as evi-  
11          denced by the return receipt.

12          “(20) The term ‘other games of chance’ means  
13          any class III gaming activity which is not a gam-  
14          bling device, a lottery game, a banking game, or par-  
15          imutuel wagering.

16          “(21) The term ‘parimutuel wagering’ means a  
17          system of betting on contests involving humans or  
18          animals in which bets are pooled and the winners  
19          are paid according to odds determined by the volume  
20          of betting on the entries, with or without a deduc-  
21          tion for the operator.

22          “(22) The term ‘person’ means an Indian tribe,  
23          individual, firm, corporation, association, partner-  
24          ship, trust, consortium, joint venture, or commercial  
25          entity.

1           “(23) The term ‘principal characteristics’  
2 means the pace of play, complexity or type of choices  
3 for the player, appearance of the activity, nature of  
4 the interaction with the operator, other players or  
5 machine, and other attributes of a gaming activity  
6 which would be perceived by and be significant to a  
7 player familiar with games of chance.

8           “(24) The term ‘prohibited as a matter of State  
9 criminal law’ means an activity in a State which,  
10 under the law of that State, is subject to prosecution  
11 and a criminal sanction.

12           “(25) The term ‘Secretary’ means the Secretary  
13 of the Interior.

14           “(26) the term ‘slot machine’ means any player  
15 activated gaming device involving mechanical, elec-  
16 tronic, electromechanical, or computer technology, or  
17 any combination thereof which—

18                   “(A) accepts anything of monetary value,  
19 whether coin, currency or tokens, to initiate the  
20 operation of the gaming device;

21                   “(B) has as an integral part, a system of  
22 generating infinite random numbers or com-  
23 binations thereof, which determine the success-  
24 ful operation of the device;

1           “(C) rewards the successful operation of  
2           the device with anything of monetary value; and

3           “(D) rewards the successful operation of  
4           the device solely on the basis of chance.

5           “(27) The term ‘social gaming activity’ means  
6           a gaming activity which is not—

7           “(A) a commercial, governmental, chari-  
8           table or systematic gaming enterprise;

9           “(B) where no person, organization or en-  
10          tity other than the participants obtains or re-  
11          ceives money or something of more than mini-  
12          mal value from the gaming activity, whether by  
13          taking a percentage of wagers or winnings or by  
14          banking the game;

15          “(C) where no person, organization or en-  
16          tity charges admission or other fees to partici-  
17          pate in the game; and

18          “(D) where such gaming activity is not  
19          conducted in places ordinarily and regularly  
20          used for gaming and is only played for nominal  
21          value.”.

22          (4) Section 5 of the Act (25 U.S.C. 2704) is  
23          amended to read as follows:

1   **“SEC. 5. ESTABLISHMENT OF THE NATIONAL INDIAN GAM-**  
2                           **ING COMMISSION.**

3           “(a) There is established as an independent agency  
4 of the United States a Commission to be known as the  
5 National Indian Gaming Commission.

6           “(b)(1) COMPOSITION OF THE COMMISSION.—The  
7 Commission shall be composed of five full-time members  
8 who shall be appointed by the President with the advice  
9 and consent of the Senate.

10          “(2) Each member of the Commission shall be a citi-  
11 zen of the United States.

12          “(3) Each member of the Commission shall devote  
13 his entire time and attention to the business of the Com-  
14 mission and shall not—

15               “(A) pursue any other business or occupation  
16 or hold any other office;

17               “(B) be actively engaged in or have any direct  
18 pecuniary interest in gaming activities;

19               “(C) have any pecuniary interest in any busi-  
20 ness or organization holding a gaming license under  
21 this Act or doing business with any person or orga-  
22 nization licensed under this Act.

23               “(D) have been convicted of a felony or gaming  
24 offense; or

1           “(E) have any financial interest in, or manage-  
2           ment responsibility for, any gaming-related contract  
3           or any other contract approved pursuant to this Act.

4           “(4) Not more than three of such members of the  
5           Commission shall be members of the same political party  
6           and in making appointments, members of different politi-  
7           cal parties shall be appointed alternatively as nearly as  
8           may be practicable.

9           “(5) At least two members of the Commission shall  
10          be enrolled members of any Indian tribe.

11          “(6) The Commission shall be composed of the most  
12          qualified persons available, provided—

13                 “(A) one member of the Commission must be a  
14                 certified public accountant with at least 5 years of  
15                 progressively responsible experience in accounting  
16                 and auditing, and a comprehensive knowledge of the  
17                 principles and practices of corporate finance; and

18                 “(B) one member of the Commission must be  
19                 selected with special reference to his training and ex-  
20                 perience in the fields of investigation or law enforce-  
21                 ment.

22          “(7) The Attorney General of the United States shall  
23          conduct a background investigation on any person consid-  
24          ered for appointment to the Commission, with particular  
25          regard to the nominee’s financial stability, integrity, and

1 responsibility and his reputation for good character, hon-  
2 esty, and integrity.

3 “(c) TERMS OF OFFICE.—(1) Each member of the  
4 Commission shall hold office of a term of five years.

5 “(2) Initial appointments to the Commission shall be  
6 for terms as follows—

7 “(A) the Chairman for 5 years;

8 “(B) one member for 4 years;

9 “(C) one member of 3 years; and

10 “(D) and the remaining members for terms of  
11 2 years each.

12 “(3) After the initial appointments, all members shall  
13 be appointed for terms of 5 years; provided that no mem-  
14 ber shall serve more than two terms of 5 years each.

15 “(d) VACANCIES.—(1) The persons appointed by the  
16 President to serve as Chairman and members of the Com-  
17 mission shall serve in such capacities throughout their en-  
18 tire terms and until their successors shall have been duly  
19 appointed and qualified, unless the Chairman or a member  
20 of the Commission has been removed for cause under  
21 paragraph (2) of this subsection.

22 “(2) The Chairman or any member of the Commis-  
23 sion may only be removed from office before the expiration  
24 of their term of office by the President for neglect of duty,  
25 or malfeasance in office, or for other good cause shown.

1       “(3) Appointments to fill vacancies on the Commis-  
2 sion shall be for the unexpired term of the member to be  
3 replaced.

4       “(e) QUORUM.—Three members of the Commission,  
5 at least one of which is the Chairman or Vice Chairman,  
6 shall constitute a quorum.

7       “(f) CHAIRMAN.—The President shall designate one  
8 of the five members of the Commission to serve as Chair-  
9 man of the Commission.

10       “(g) VICE CHAIRMAN.—The Commission shall select,  
11 by majority vote, one of the members of the Commission  
12 to serve as Vice Chairman. The Vice Chairman shall serve  
13 as Chairman of the Commission in the Chairman’s ab-  
14 sence and shall exercise such other powers as may be dele-  
15 gated by the Chairman.

16       “(h) MEETINGS.—(1) The Commission shall meet at  
17 the call of the Chairman or a majority of its members.

18       “(2) A majority of the members of the Commission  
19 shall determine any action of the Commission.

20       “(i) COMPENSATION.—(1) The Chairman of the  
21 Commission shall be paid at a rate equal to that of level  
22 III of the Executive Schedule under section 5316 of title  
23 5, United States Code.

24       “(2) The members of the Commission shall each be  
25 paid at a rate equal to that of level IV of the Executive



1 Schedule under section 5316 of title 5, United States  
2 Code.

3 “(3) All members of the Commission shall be reim-  
4 bursed in accordance with title 5, United States Code, for  
5 travel, subsistence, and other necessary expenses incurred  
6 by them in the performance of their duties.”.

7 (5) Section 6 of the Act (25 U.S.C. 2705) is amended  
8 to read as follows:

9 **“SEC. 6. POWERS OF THE CHAIRMAN.**

10 “(a) The Chairman shall serve as the chief executive  
11 officer of the Commission.

12 “(b) Subject to the provisions of subsection (c) of this  
13 section, the Chairman shall—

14 “(1) employ and supervise such personnel as is  
15 deemed necessary to carry out the functions of the  
16 Commission, and assign work among such personnel;

17 “(2) use and expend Federal funds and funds  
18 collected pursuant to section 15 of this Act; and

19 “(3) contract for the services of other profes-  
20 sional, technical and operational personnel and con-  
21 sultants as may be necessary to the performance of  
22 the Commission’s responsibilities under this Act.

23 “(c) In carrying out any of the functions pursuant  
24 to this section, the Chairman shall be governed by the gen-  
25 eral policies of the Commission and by such regulatory de-

1 cisions, findings and determinations as the Commission  
2 may by law be authorized to make.”.

3 (6) Section 7 of the Act (25 U.S.C. 2706) is amended  
4 to read as follows:

5 **“SEC. 7. POWERS AND AUTHORITY OF THE COMMISSION.**

6 “(a) GENERAL POWERS.—The Commission shall  
7 have the power to—

8 “(1) approve the annual budget of the Commis-  
9 sion;

10 “(2) adopt regulations to carry out the provi-  
11 sions of this Act;

12 “(3) exercise the law enforcement powers nec-  
13 essary to fulfill the purposes of this Act and the reg-  
14 ulations promulgated thereunder;

15 “(4) establish a rate of fees and assessments as  
16 provided in section 15 of this Act;

17 “(5) conduct investigations;

18 “(6) issue a temporary order closing the oper-  
19 ation of gaming activities;

20 “(7) after a hearing, make permanent a tem-  
21 porary order closing the operation of gaming activi-  
22 ties as provided in section 13 of this Act;

23 “(8) grant, deny, limit, condition, restrict, re-  
24 voke or suspend any license issued pursuant to this

1 Act or fine any person licensed pursuant to this Act  
2 for any cause deemed reasonable by the Commission;

3 “(9) inspect and examine all premises located  
4 on Indian lands on which class II or class III gam-  
5 ing is conducted;

6 “(10) demand access to and inspect, examine,  
7 photocopy, and audit all papers, books, and records  
8 of Class II and Class III gaming activities conducted  
9 on Indian lands and any other matters necessary to  
10 carry out the duties of the Commission under this  
11 Act;

12 “(11) use the United States mail in the same  
13 manner and under the same conditions as any de-  
14 partment or agency of the United States;

15 “(12) procure supplies, services, and property  
16 by contract in accordance with applicable Federal  
17 laws and regulations;

18 “(13) enter into contracts with Federal, State,  
19 tribal, and private entities for activities necessary to  
20 the discharge of the duties of the Commission;

21 “(14) serve or cause to be served its process or  
22 notices in a manner provided for by the Commission  
23 or in a manner provided for the service of process  
24 and notice in civil actions in accordance with the  
25 rules of a tribal, State or Federal court;

1           “(15) propound written interrogatories and ap-  
2           point hearing examiners, to whom may be delegated  
3           the power and authority to administer oaths, issue  
4           subpoenas, propound written interrogatories, and re-  
5           quire testimony under oath;

6           “(16) conduct all hearings pertaining to civil  
7           violations of this Act or regulations promulgated  
8           thereunder;

9           “(17) collect all fees and assessments imposed  
10          by this Act and the regulations promulgated there-  
11          under;

12          “(18) assess penalties for the violation of provi-  
13          sions of this Act and the regulations promulgated  
14          thereunder;

15          “(19) provide training and technical assistance  
16          to Indian tribal governments in all aspects of the  
17          conduct and regulation of gaming activities; and

18          “(20)(A) in addition to its existing authority,  
19          the Commission shall have the authority to delegate,  
20          by published order or rule, any of its functions to a  
21          division of the Commission, an individual member of  
22          the Commission, an administrative law judge, or an  
23          employee, including functions with respect to hear-  
24          ing, determining, ordering, certifying, reporting, or  
25          otherwise acting as to any work, business, or matter;

1           “(B) nothing in this section shall be deemed to  
2           authorize the delegation of the function of rule-mak-  
3           ing as defined in subchapter II of chapter 5 of title  
4           5 of the United States Code, with reference to gen-  
5           eral rules as distinguished from rules of particular  
6           applicability, or the making of any rule;

7           “(C) with respect to the delegation of any of its  
8           functions, the Commission shall retain a discre-  
9           tionary right to review the action of any division of  
10          the Commission, individual member of the Commis-  
11          sion, administrative law judge, or employee, upon its  
12          own initiative;

13          “(D) the vote of one member of the Commis-  
14          sion shall be sufficient to bring any such action be-  
15          fore the Commission for review; and

16          “(E) if the right to exercise such review is de-  
17          clined, or if no such review is sought within the time  
18          stated in the rules promulgated by the Commission,  
19          then the action of any such division of the Commis-  
20          sion, individual member of the Commission, adminis-  
21          trative law judge, or employee, shall, for all pur-  
22          poses, including appeal or review thereof, be deemed  
23          the action of the Commission.”

24          “(b) REGULATORY AUTHORITY.—The Commission  
25          shall—

1           “(1) approve all gaming-related contracts;

2           “(2) establish minimum regulatory require-  
3       ments for background investigations, licensing of  
4       persons and licensing of gaming operations associ-  
5       ated with the conduct of class II and class III gam-  
6       ing on Indian lands by tribal governments;

7           “(3) establish minimum internal control re-  
8       quirements for the operation of class II and class III  
9       gaming activities on Indian lands, including but not  
10      limited to—

11           “(A) surveillance and security personnel  
12          and systems capable of monitoring all gaming  
13          activities including the conduct of games, cash-  
14          iers’ cages, change booths, count rooms, move-  
15          ments of cash and chips, entrances and exits to  
16          gaming facilities and other critical areas of any  
17          gaming facility;

18           “(B) the rules for the play of games and  
19          controls related to such rules;

20           “(C) credit and debit collection controls;

21           “(D) controls over gambling devices and  
22          equipment; and

23           “(E) accounting and auditing;

1           “(4) inspect and examine all premises located  
2           on Indian lands on which class II or class III gam-  
3           ing is conducted;

4           “(5)(A) monitor and regulate the background  
5           investigations conducted by tribal governments of  
6           persons involved in a class II gaming operation, in-  
7           cluding but not limited to key employees of any li-  
8           censed gaming operation, gaming-related contrac-  
9           tors, and any persons who have a material involve-  
10          ment, either directly or indirectly, with a licensed  
11          gaming operation, to assure that background inves-  
12          tigations are consistent with the minimum regu-  
13          latory requirements for background investigations  
14          established by the Commission.

15          “(B) monitor and regulate the licensing by trib-  
16          al governments of persons involved in a class II  
17          gaming operation, including but not limited to key  
18          employees of any licensed gaming operation, gaming-  
19          related contractors, gaming service industries, and  
20          any persons having a material involvement, either di-  
21          rectly or indirectly, with a licensed gaming oper-  
22          ation, gaming related contractor or gaming service  
23          industry, to assure that such licensing is consistent  
24          with the minimum regulatory requirements for the  
25          licensing of persons established by the Commission;

1           “(C) monitor and regulate the licensing by trib-  
2           al governments of class II gaming operations to as-  
3           sure that such licensing is consistent with the mini-  
4           mum regulatory requirements for the licensing of  
5           gaming operations established by the Commission;

6           “(D) except that where a tribal government’s  
7           system for the conduct of background investigations,  
8           the licensing of persons or the licensing of gaming  
9           operations fails to meet the minimum regulatory  
10          background investigation or licensing requirements  
11          established by the Commission, the Commission’s  
12          authority to conduct background investigations, to li-  
13          cense and directly regulate Class II gaming activities  
14          conducted on Indian lands shall be exclusive until  
15          such time as the Commission determines that the  
16          regulation of Class II gaming activities on Indian  
17          lands by a tribal government meets the established  
18          minimum regulatory requirements;

19          “(6)(A) monitor and regulate a tribal gaming  
20          operation and the tribal government’s system for in-  
21          ternal controls to assure that such system is consist-  
22          ent with the minimum regulatory requirements for  
23          internal controls established by the Commission;

24          “(B) except that where a tribal government’s  
25          system for internal controls fails to meet the mini-



1       mum internal control requirements established by  
2       the Commission, the Commission's authority to di-  
3       rectly establish and regulate internal control systems  
4       associated with Class II gaming activities shall be  
5       exclusive until such time as the Commission deter-  
6       mines that the regulation of Class II gaming activi-  
7       ties on Indian lands by a tribal government meets  
8       the minimum internal control requirements estab-  
9       lished by the Commission;

10       “(7) monitor and regulate Class III gaming ac-  
11       tivities conducted on Indian lands, and have the ex-  
12       clusive authority to—

13               “(A) license—

14                       “(i) Class III gaming operations con-  
15                       ducted on Indian lands;

16                       “(ii) key employees of all licensed  
17                       Class III gaming operations conducted on  
18                       Indian lands;

19                       “(iii) any persons having a material  
20                       involvement, either directly or indirectly,  
21                       with a licensed Class III gaming operations  
22                       conducted on Indian lands;

23                       “(iv) gaming-related contractors, in-  
24                       cluding but not limited to any vendor or  
25                       supplier of gaming equipment or gambling

1 devices associated with a licensed class III  
2 gaming operation;

3 “(v) gaming service industries pursu-  
4 ant to which an Indian tribal government  
5 or its agent enters into an agreement in  
6 excess of \$10,000 for the procurement of  
7 materials, supplies, equipment or services  
8 which are used in association with a li-  
9 censed Class III gaming operation, or fi-  
10 nancing contracts or agreements with a  
11 gaming service industry in excess of  
12 \$10,000 associated with any facility which  
13 is used in association with a licensed Class  
14 III gaming activity; and

15 “(vi) any other person or company or  
16 other entity for which the Commission may  
17 require licensure;

18 “(B) conduct background investigations  
19 on—

20 “(i) key employees of any licensed  
21 class III gaming operation conducted on  
22 Indian lands;

23 “(ii) principal investors having a ma-  
24 terial involvement, either directly or indi-

1 rectly, with a licensed class III gaming op-  
2 eration;

3 “(iii) principal gaming-related con-  
4 tractors; and

5 “(iv) any other person or company or  
6 other entity for which the Commission may  
7 require a background investigation;

8 “(C) the Commission shall make a deter-  
9 mination as to principal investors and principal  
10 gaming-related contractors;

11 “(8)(A) in the context of a compact entered  
12 into by a tribal government with a state government,  
13 monitor and regulate the conduct of background in-  
14 vestigations of (i) non-principal investors having a  
15 material involvement, either directly or indirectly,  
16 with a licensed Class III gaming operation; (ii) non-  
17 principal gaming-related contractors, including but  
18 not limited to vendors or suppliers of gaming equip-  
19 ment or gambling devices associated with a licensed  
20 Class III gaming operation, and (iii) non-principal  
21 key employees of any licensed Class III gaming oper-  
22 ation; either in conjunction with Indian tribal gov-  
23 ernments or state governments, or both;

24 “(B) except that where the regulatory system of  
25 a tribal government or a state government, or both,

1       for the conduct of background investigations fails to  
2       meet minimum regulatory requirements established  
3       by the Commission for the conduct of background  
4       investigations, the Commission shall have the exclu-  
5       sive authority to conduct background investigations  
6       until such time as the regulatory system of a tribal  
7       government or a state government, or both, meet the  
8       minimum regulatory requirements established by the  
9       Commission for the conduct of background inves-  
10      tigations;

11           “(9)(A) in the context of a compact entered  
12      into by a tribal government with the Secretary of the  
13      Interior, monitor and regulate the conduct of back-  
14      ground investigations of (i) non-principal investors  
15      having a material involvement, either directly or in-  
16      directly, with a licensed Class III gaming operation;  
17      (ii) non-principal gaming-related contractors, includ-  
18      ing but not limited to vendors or suppliers of gaming  
19      equipment or gambling devices associated with a li-  
20      censed Class III gaming operation, and (iii) non-  
21      principal key employees of any licensed Class III  
22      gaming operation; in conjunction with an Indian  
23      tribal government to assure that the tribal govern-  
24      ment’s system for the conduct of background inves-  
25      tigations is consistent with the minimum regulatory

1 requirements for backgrounds investigations estab-  
2 lished by the Commission;

3 “(B) except that where the regulatory system of  
4 a tribal government for the conduct of background  
5 investigations fails to meet minimum regulatory re-  
6 quirements established by the Commission for the  
7 conduct of background investigations, the Commis-  
8 sion shall have the exclusive authority to conduct  
9 background investigations until such time as the  
10 regulatory system of a tribal government meets the  
11 minimum regulatory requirements established by the  
12 Commission for the conduct of background inves-  
13 tigations;

14 “(10)(A) monitor and regulate the internal con-  
15 trol systems associated with a licensed class III gam-  
16 ing operation to assure that such systems are con-  
17 sistent with the minimum regulatory requirements  
18 for internal controls established by the Commission;

19 “(B) except that where the internal control sys-  
20 tems fail to meet the minimum internal control re-  
21 quirements established by the Commission, the Com-  
22 mission’s authority to directly establish and regulate  
23 internal control systems associated with a licensed  
24 class III gaming operation shall be exclusive until  
25 such time as the Commission determines that the in-

1        ternal control systems meet the minimum internal  
2        control requirements established by the Commission;

3        “(c) LICENSING.—(1) A license approved by the  
4        Commission shall be required of—

5                “(A) any person having a material involvement,  
6        either directly or indirectly, with a licensed gaming  
7        operation;

8                “(B) any person having a material involvement,  
9        either directly or indirectly, with a gaming-related  
10       contract;

11               “(C) any gaming-related contractor, including  
12       but not limited to any vendor or supplier of gaming  
13       equipment or gambling devices associated with a li-  
14       censed gaming operation;

15               “(D) any gaming service industry for which the  
16       Commission may require licensure;

17               “(E) any gaming operation, including the man-  
18       agement of any gaming operation; and

19               “(F) any other person or company or other en-  
20       tity for which the Commission may require licensure.

21       “(2)(A) The Commission may issue a statement of  
22       compliance to an applicant for any license or for qualifica-  
23       tion status under this Act at any time the Commission  
24       is satisfied that one or more particular eligibility criteria  
25       have been satisfied by an applicant.

1       “(B) Such statement shall specify the eligibility cri-  
2       terion satisfied, the date of such satisfaction and a res-  
3       ervation to the Commission to revoke the statement of  
4       compliance at any time based upon a change of cir-  
5       cumstances affecting such compliance.

6       “(3)(A) No gaming operation shall operate unless all  
7       necessary licenses and approvals therefor have been ob-  
8       tained in accordance with this Act.

9       “(B)(i) Prior to the operation of any gaming facility  
10      or activity, every agreement for the management of the  
11      gaming operation shall be in writing and filed with the  
12      Commission pursuant to section 11 of this Act.

13      “(ii) No such agreement shall be effective unless ex-  
14      pressly approved by the Commission.

15      “(iii) The Commission may require that any such  
16      agreement include within its terms any provisions reason-  
17      ably necessary to best accomplish the policies of this Act.

18      “(iv) The Commission may determine that any appli-  
19      cant who does not have the ability to exercise any signifi-  
20      cant control over a licensed gaming operation shall not be  
21      eligible to hold or required to hold a license.

22      “(4)(A) The Commission shall deny a license for the  
23      management of a gaming operation to any applicant who  
24      is disqualified on the basis of any of the following cri-  
25      teria—

1           “(i) failure of the applicant to prove by clear  
2           and convincing evidence that the applicant is quali-  
3           fied in accordance with the provisions of this Act;

4           “(ii) failure of the applicant to provide informa-  
5           tion, documentation and assurances required by the  
6           Act or requested by the Commission, or failure of  
7           the applicant to reveal any fact material to qualifica-  
8           tion, or the supplying of information which is untrue  
9           or misleading as to a material fact pertaining to the  
10          qualification criteria; and

11          “(iii) the conviction of the applicant, or of any  
12          person required to be qualified under this Act as a  
13          condition of a license for the management of a gam-  
14          ing operation, of any offense in any jurisdiction  
15          which is deemed by the Commission to disqualify the  
16          applicant: *Provided, That—*

17          “(B) the automatic disqualification provisions of this  
18          subsection shall not apply with regard to any conviction  
19          which did not occur within the 10-year period immediately  
20          preceding application for licensure and which the appli-  
21          cant demonstrates by clear and convincing evidence does  
22          not justify automatic disqualification pursuant to this sub-  
23          section and any conviction which has been the subject of  
24          a judicial order of expungement.



1       “(5)(A) Upon the filing of an application for a license  
2 for the management of a gaming operation and such sup-  
3 plemental information as the Commission may require, the  
4 Commission shall conduct an investigation into the quali-  
5 fications of the applicant, and the Commission shall con-  
6 duct a hearing thereon concerning the qualifications of the  
7 of the applicant in accordance with its regulations.

8       “(B) After such investigation and hearing, the Com-  
9 mission may either deny the application or grant a gaming  
10 operation license to an applicant whom it determines to  
11 be qualified to hold such license.

12       “(C)(i) The Commission shall have the authority to  
13 deny any application pursuant to the provisions of this  
14 Act.

15       “(ii) When an application is denied, the Commission  
16 shall prepare and file an order denying such application  
17 with the general reasons therefor, and if requested by the  
18 applicant, shall further prepare and file a statement of the  
19 reasons for the denial, including the specific findings of  
20 facts.

21       “(iii) After an application is submitted to the Com-  
22 mission, final action of the Commission shall be taken  
23 within 90 days after completion of all hearings and inves-  
24 tigations and the receipt of all information required by the  
25 Commission.

1       “(D) If satisfied that an applicant is qualified to re-  
2 ceive a license for the management of a gaming operation,  
3 and upon tender of all license fees and assessments as re-  
4 quired by this Act and regulations of the Commission, and  
5 such bonds as the Commission may require for the faithful  
6 performance of all requirements imposed by this Act or  
7 regulations promulgated thereunder, the Commission shall  
8 issue a license for the management of a gaming operation  
9 for the term of 1 year.

10       “(E)(i) The Commission shall fix the amount of the  
11 bond or bonds to be required under this section in such  
12 amounts as it may deem appropriate, by rules of uniform  
13 application.

14       “(ii) The bonds so furnished may be applied by the  
15 Commission to the payment of any unpaid liability of the  
16 licensee under this Act.

17       “(iii) The bond shall be furnished in cash or nego-  
18 tiable securities, by a surety bond guaranteed by a satis-  
19 factory guarantor, or by an irrevocable letter of credit is-  
20 sued by a banking institution of any state acceptable to  
21 the Commission.

22       “(iv) If furnished in cash or negotiable securities, the  
23 principal shall be placed without restriction at the disposal  
24 of the Commission, but any income shall inure to the bene-  
25 fit of the licensee.

1       “(6)(A)(i) Subject to the power of the Commission  
2 to deny, revoke, or suspend licenses, any license for the  
3 management of a gaming operation in force shall be re-  
4 newed by the Commission for the next succeeding license  
5 period upon proper application for renewal and payment  
6 of license fees and assessments as required by law and  
7 the regulations of the Commission.

8       “(ii) The license period for a renewed license for the  
9 management of a gaming operation shall be up to one year  
10 for each of the first two renewal periods succeeding the  
11 initial issuance of a license for the management of a gam-  
12 ing operation pursuant to subsection (5) of this section.

13       “(iii) Thereafter, a license for the management of a  
14 gaming operation may be renewed for a period of up to  
15 two years, but the Commission may reopen licensing hear-  
16 ings at any time.

17       “(B)(i) Notwithstanding the other provisions of this  
18 subsection, the Commission may, for the purpose of  
19 facilitating its administration of this Act, renew the license  
20 for the management of a gaming operation of the holders  
21 of licenses initially opening after the date of enactment  
22 of this Act for a period of one year, provided the renewal  
23 period for those particular licenses for the management  
24 of a gaming operation may not be adjusted more than once  
25 pursuant to this provision.

1       “(ii) The Commission shall act upon any such appli-  
2 cation prior to the date of expiration of the current license.

3       “(C) Application for renewal shall be filed with the  
4 Commission no later than 90 days prior to the expiration  
5 of the current license, and all license fees and assessments  
6 as required by law shall be paid to the Commission on  
7 or before the date of expiration of the current license.

8       “(D) Upon renewal of any license the Commission  
9 shall issue an appropriate renewal certificate or validating  
10 device or sticker which shall be attached to each license  
11 for the management of a gaming operation.

12       “(7) Subject to the power of the Commission to deny,  
13 revoke or suspend any license, any license other than a  
14 license for the management of a gaming operation may  
15 be renewed upon proper application for renewal and the  
16 payment of fees in accordance with the rules of the Com-  
17 mission, but in no event later than the date of expiration  
18 of the current license.

19       “(d) HEARINGS.—The Commission shall establish  
20 procedures for the conduct of hearings associated with—

21               “(A) licensing of gaming operations and the  
22 management of a gaming operation, including the  
23 denial, limiting, conditioning, restriction, revocation,  
24 or suspension of any such license;

25               “(B) licensing of—

1           “(i) key employees of gaming operations;

2           “(ii) any person having a material involve-  
3           ment, either directly or indirectly, with a li-  
4           censed gaming operation;

5           “(iii) gaming-related contractors, including  
6           but not limited to any vendor or supplier of  
7           gaming equipment or gambling devices associ-  
8           ated with a licensed gaming operation;

9           “(iv) gaming service industries pursuant to  
10          which an Indian tribal government or its agent  
11          enters into an agreement in excess of \$10,000  
12          for the procurement of materials, supplies,  
13          equipment or services which are used in asso-  
14          ciation with a gaming operation, or financing  
15          contracts or agreements with a gaming service  
16          industry in excess of \$10,000 associated with  
17          any facility which is used in association with a  
18          gaming operation; and

19          “(v) any other person or company or other  
20          entity for which the Commission may require li-  
21          censure;

22          including the denial, limiting, conditioning, restric-  
23          tion, revocation, or suspension of any such license.

24          “(2) Following a hearing for any of the purposes au-  
25          thorized in this section, the Commission shall render its

1 decision and issue an order, and serve such decision and  
2 order upon the affected parties.

3 “(3)(A) The Commission may, upon motion made  
4 within 10 days after the service of a decision and order,  
5 order a rehearing before the Commission upon such terms  
6 and conditions as it may deem just and proper when the  
7 Commission finds cause to believe that the decision and  
8 order should be reconsidered in view of the legal, policy  
9 or factual matters advanced by the moving party or raised  
10 by the Commission on its own motion.

11 “(B) Following a rehearing, the Commission shall  
12 render its decision and issue an order, and serve such deci-  
13 sion and order upon the affected parties.

14 “(C) The Commission’s decision and order under sub-  
15 section (2) of this section when no motion for a rehearing  
16 is made, or the Commission’s decision and order upon re-  
17 hearing shall constitute final agency action for purposes  
18 of judicial review under the Administrative Procedure Act.

19 “(4) The District of Columbia Circuit Court of Ap-  
20 peals shall have jurisdiction to review the Commission’s  
21 licensing decisions and orders.

22 “(e) COMMISSION STAFFING.—(1) The Chairman  
23 shall appoint a General Counsel to the Commission who  
24 shall be paid at the annual rate of basic pay payable for

1 ES-6 of the Senior Executive Service Schedule under sec-  
2 tion 5382 of title 5 of the United States Code.

3       “(2) The Chairman shall appoint and supervise other  
4 staff of the Commission without regard to the provisions  
5 of title 5, United States Code, governing appointments in  
6 the competitive service. Such staff shall be paid without  
7 regard to the provisions of chapter 51 and subchapters  
8 III and VIII of chapter 53 of such title relating to classi-  
9 fication and General and Senior Executive Service Sched-  
10 ule pay rates, except that no individual so appointed may  
11 receive pay in excess of the annual rate of basic pay pay-  
12 able for ES-5 of the Senior Executive Service Schedule  
13 under section 5382 of that title.

14       “(3) The Chairman may procure temporary and  
15 intermittent services under section 3109(b) of title 5,  
16 United States Code, but at rates for individuals not to  
17 exceed the daily equivalent of the maximum annual rate  
18 of basic pay payable for ES-6 of the Senior Executive  
19 Service Schedule.

20       “(4) Upon the request of the Chairman, the head of  
21 any federal agency is authorized to detail any of the per-  
22 sonnel of such agency to the Commission to assist the  
23 Commission in carrying out its duties under this Act, un-  
24 less otherwise prohibited by law.

1       “(5) The Administrator of General Services shall pro-  
2 vide to the Commission on a reimbursable basis such ad-  
3 ministrative support services as the Commission may re-  
4 quest.

5       “(f) COMMISSION ACCESS TO INFORMATION.—(1)  
6 The Commission may secure from any department or  
7 agency of the United States information necessary to en-  
8 able it to carry out this Act. Upon request of the Chair-  
9 man, the head of such department or agency shall furnish  
10 such information to the Commission, unless otherwise pro-  
11 hibited by law.

12       “(2) The Commission may secure from any law en-  
13 forcement agency of any State or Indian tribal government  
14 information necessary to enable it to carry out this Act.  
15 Upon request of the Chairman, the head of any State or  
16 tribal law enforcement agency shall furnish such informa-  
17 tion to the Commission, unless otherwise prohibited by  
18 law.

19       “(g) INVESTIGATIONS AND ACTIONS.—(1)(A) The  
20 Commission may, in its discretion, conduct such investiga-  
21 tions as it deems necessary to determine whether any per-  
22 son has violated, is violating, or is about to violate any  
23 provision of this Act or the rules and regulations promul-  
24 gated thereunder and may require or permit any person  
25 to file with it a statement in writing, under oath, or other-



1 wise as the Commission shall determine, as to all the facts  
2 and circumstances concerning the matter to be inves-  
3 tigated.

4 “(B) The Commission is authorized, in its discretion,  
5 to investigate any facts, conditions, practices, or matters  
6 which it may deem necessary or proper to aid in the en-  
7 forcement of such provisions, in the prescribing of rules  
8 and regulations under this Act, or in securing information  
9 to serve as a basis for recommending further legislation  
10 concerning the matters to which this Act relates.

11 “(2)(A) For the purpose of any investigation or any  
12 other proceeding under this Act, any member of the Com-  
13 mission or any officer designated by the Commission is  
14 empowered to administer oaths and affirmations, sub-  
15 poena witnesses, compel their attendance, take evidence,  
16 and require the production of any books, papers, cor-  
17 respondence, memoranda, or other records which the Com-  
18 mission deems relevant or material to the inquiry. Such  
19 attendance of witnesses and the production of any such  
20 records may be required from any place in the United  
21 States or any State at any designated place of hearing.

22 “(B) In case of contumacy by or refusal to obey any  
23 subpoena issued to any person, the Commission may in-  
24 voke the jurisdiction of any court of the United States  
25 within the jurisdiction of which an investigation or pro-

1 ceeding is carried on, or where such person resides or car-  
2 ries on business, in requiring the attendance and testi-  
3 mony of witnesses and the production of books, papers,  
4 correspondence, memoranda, and other records.

5 “(C) Any such court may issue an order requiring  
6 such person to appear before the Commission or member  
7 of the Commission or officer designated by the Commis-  
8 sion, there to produce records, if so ordered, or to give  
9 testimony touching the matter under investigation or in  
10 question; and any failure to obey such order of the court  
11 may be punished by such court as a contempt thereof.

12 “(3) Whenever it shall appear to the Commission that  
13 any person is engaged or about to engage in acts or prac-  
14 tices constituting a violation of any provision of this Act  
15 or rules or regulations thereunder, the Commission may—

16 “(A) in its discretion, bring an action in the  
17 proper district court of the United States or the  
18 United States District Court for the District of Co-  
19 lumbia, to enjoin such acts or practices, and upon a  
20 proper showing, a permanent or temporary injunc-  
21 tion or restraining order shall be granted without  
22 bond; or

23 “(B) transmit such evidence as may be avail-  
24 able concerning such acts or practices as may con-  
25 stitute a violation of any criminal laws of the United

1 States to the Attorney General, who may institute  
2 the necessary criminal proceedings.

3 “(4) Upon application of the Commission, the district  
4 courts of the United States shall have jurisdiction to issue  
5 writs of mandamus, injunctions, and orders commanding  
6 any person to comply with the provisions of this Act and  
7 the rules and regulations thereunder.”.

8 (7) Section 8 of the Act (25 U.S.C. 2707) is amended  
9 to read as follows:

10 **“SEC. 8. REQUIREMENTS AND PROCEDURES FOR APPLI-**  
11 **CANTS AND LICENSEES.**

12 “(a) REQUIREMENTS OF APPLICANTS AND LICENS-  
13 EES.—(1)(A) It shall be the affirmative responsibility of  
14 each applicant for a license and each licensee to establish  
15 by clear and convincing evidence their individual qualifica-  
16 tions, and for an applicant for a license for the manage-  
17 ment of a gaming operation, the qualifications of each per-  
18 son or entity that is required to be qualified under this  
19 Act.

20 “(B) For purposes of this section, the terms ‘appli-  
21 cant’ and ‘licensee’ shall include any person, any entity,  
22 and corporation, any company or any other organization  
23 for whom the Commission requires an approved license  
24 pursuant to section 7(c) of this Act as a condition of doing  
25 business in Indian country.

1       “(2)(A) Any applicant or licensee shall provide all in-  
2 formation required by this Act and satisfy all requests for  
3 information pertaining to qualifications and in the form  
4 specified by the Commission.

5       “(B) All applicants and licensees shall waive the li-  
6 ability of the Commission and its members, employees and  
7 agents, for any damages resulting from any disclosure or  
8 publication in any manner, other than a willfully unlawful  
9 disclosure or publication, of any material or information  
10 acquired during inquiries, investigations or hearings.

11       “(3) All applicants and licensees shall consent to in-  
12 spections, searches and seizures and the supplying of  
13 handwriting exemplars as authorized by this Act and regu-  
14 lations promulgated thereunder.

15       “(4)(A) All applicants and licensees shall have the  
16 continuing duty to provide any assistance or information  
17 required by the Commission, and to cooperate in any in-  
18 quiry or investigation conducted by the Commission and  
19 any inquiry, investigation, or hearing conducted by the  
20 Commission.

21       “(B) If, upon issuance of a formal request to answer  
22 or produce information, evidence or testimony, any appli-  
23 cant or licensee refuses to comply, the application or li-  
24 cense of such person may be denied or revoked by the  
25 Commission.

1       “(5) No applicant or licensee shall give or provide,  
2 offer to give or provide, directly or indirectly, any com-  
3 pensation or reward or any percentage or share of the  
4 money or property played or received through gaming ac-  
5 tivities, except as authorized by this Act, in consideration  
6 for obtaining any license, authorization, permission or  
7 privilege to participate in any way in the operation of gam-  
8 ing activities.

9       “(6) Each applicant or licensee shall be photographed  
10 and fingerprinted for identification and investigation pur-  
11 poses in accordance with procedures established by the  
12 Commission.

13       “(7)(A) All applicants and licensees, and all persons  
14 employed by a gaming service industry licensed pursuant  
15 to this Act, shall have a duty to inform the Commission  
16 of any action which they believe would constitute a viola-  
17 tion of this Act.

18       “(B) No person who so informs the Commission shall  
19 be discriminated against by an applicant or licensee be-  
20 cause of the supplying of such information.

21       “(8)(A) Any person who must be qualified pursuant  
22 to this Act in order to hold the securities of a licensee  
23 or any holding or intermediary company of a licensee may  
24 apply for qualification status prior to the acquisition of  
25 any such securities.

1       “(B) The Commission may determine to accept such  
2 an application upon a finding that there is a reasonable  
3 likelihood that, if qualified, the applicant will obtain and  
4 hold securities of a licensee sufficient to require qualifica-  
5 tion.

6       “(C) Such an applicant shall be subject to the provi-  
7 sions of this section and shall pay for the costs of all inves-  
8 tigations and proceedings in relation to the application un-  
9 less the applicant provides to the Commission an agree-  
10 ment with one or more licensees which states that the li-  
11 censee or licensees will pay those costs.

12       “(b) LICENSE FOR THE MANAGEMENT OF A GAMING  
13 OPERATION—APPLICANT ELIGIBILITY.—

14               “(1) No corporation shall be eligible to apply  
15 for a license for the management of a gaming oper-  
16 ation unless—

17                       “(A) the corporation shall be incorporated  
18 in one of the fifty states or by an Indian tribe,  
19 although such corporation may be a wholly or  
20 partially owned subsidiary of a corporation  
21 which is incorporated in one of the fifty states  
22 or of a foreign country;

23                       “(B) the corporation shall maintain an of-  
24 fice of the corporation on the premises licensed  
25 or to be licensed;

1           “(C) the corporation shall comply with all  
2 of the requirements of the laws of the state or  
3 Indian tribe pertaining to corporations in which  
4 the corporation is incorporated;

5           “(D) the corporation shall maintain a ledg-  
6 er in the principal office of the corporation  
7 which shall at all times reflect the current own-  
8 ership of every class of security issued by the  
9 corporation and shall be available for inspection  
10 by the Commission and authorized agents of  
11 the Commission at all reasonable times without  
12 notice;

13           “(E) the corporation shall maintain all op-  
14 erating accounts required by the Commission  
15 and shall notify the Commission of the financial  
16 institution in which such operating accounts are  
17 located;

18           “(F) the corporation shall include among  
19 the purposes stated in its certificate of incorpo-  
20 ration the conduct of gaming operations and  
21 provide that the certificate of incorporation in-  
22 cludes all provisions required by this Act;

23           “(G)(1) if the corporation is not a publicly-  
24 traded corporation, the corporation shall file  
25 with the Commission such adopted corporate

1 charter provisions as may be necessary to estab-  
2 lish the right of prior approval by the Commis-  
3 sion with regard to transfers of securities,  
4 shares, and other interests in the applicant cor-  
5 poration; and

6 “(2) if the corporation is a publicly-traded  
7 corporation, provide in its corporate charter  
8 that any securities of such corporation are held  
9 subject to the condition that if a holder thereof  
10 is found to be disqualified by the Commission  
11 pursuant to the provisions of this Act, such  
12 holder shall dispose of his interest in the cor-  
13 poration, provided that nothing herein shall be  
14 deemed to require that any security of such cor-  
15 poration bear any legend to this effect;

16 (H) if the corporation is not a publicly-  
17 traded corporation, the corporation shall estab-  
18 lish to the satisfaction of the Commission that  
19 appropriate charter provisions create the abso-  
20 lute right of such non-publicly-traded corpora-  
21 tions and companies to repurchase at the mar-  
22 ket price or the purchase price, whichever is the  
23 lesser, any security, share or other interest in  
24 the corporation in the event that the Commis-



1           sion disapproves a transfer in accordance with  
2           the provisions of this Act;

3           “(I) any publicly-traded holding,  
4           intermediary, or subsidiary company of the cor-  
5           poration, whether the corporation is publicly  
6           traded or not, shall contain in its corporate  
7           charter the same provisions required under  
8           paragraph (H) for a publicly-traded corporation  
9           to be eligible to apply for a license for the man-  
10          agement of a gaming operation;

11          “(J) any non-publicly-traded holding,  
12          intermediary or subsidiary company of the cor-  
13          poration, whether the corporation is publicly-  
14          traded or not, shall establish to the satisfaction  
15          of the Commission that its charter provisions  
16          are the same as those required under para-  
17          graphs (H) and (I) for a non-publicly-traded  
18          corporation to be eligible to apply for a license  
19          for the management of a gaming operation; and

20          “(K) the provisions of this subsection shall  
21          apply with the same force and effect with re-  
22          gard to applicants for a license and licensees for  
23          the management of a gaming operation which  
24          have a legal existence that is other than cor-  
25          porate to the extent which is appropriate.

1       “(c) LICENSE FOR THE MANAGEMENT OF A GAMING  
2 OPERATION—APPLICANT REQUIREMENTS.—

3           “(1) Any applicant for a license for the man-  
4 agement of a gaming operation must produce infor-  
5 mation, documentation and assurances concerning  
6 the following qualification criteria:

7           “(A) Each applicant shall produce such in-  
8 formation, documentation and assurances con-  
9 cerning financial background and resources as  
10 may be required to establish by clear and con-  
11 vincing evidence the financial stability, integrity  
12 and responsibility of the applicant, including  
13 but not limited to bank references, business and  
14 personal income and disbursement schedules,  
15 tax returns and other reports filed with govern-  
16 mental agencies, and business and personal ac-  
17 counting and check records and ledgers.

18           “(B) Each applicant shall, in writing, au-  
19 thorize the examination of all bank accounts  
20 and records as may be deemed necessary by the  
21 Commission.

22           “(C)(i) Each applicant shall produce such  
23 information, documentation and assurances as  
24 may be necessary to establish by clear and con-  
25 vincing evidence the integrity of all financial

1           backers, investors, mortgagees, bond holders,  
2           and holders of indentures, notes or other evi-  
3           dences of indebtedness, either in effect or pro-  
4           posed, which bears any relation to the proposal  
5           for the management of a gaming operation sub-  
6           mitted by the applicant or applicants, provided  
7           that this section shall not apply to banking or  
8           other licensed lending institutions and institu-  
9           tional investors.

10           “(ii) Any such banking or licensed lending  
11           institution or institutional investor shall, how-  
12           ever, produce for the Commission upon request  
13           any document or information which bears any  
14           relation to the proposal for the management of  
15           a gaming operation submitted by the applicant  
16           or applicants.

17           “(iii) The integrity of financial sources  
18           shall be judged upon the same standards as the  
19           applicant.

20           “(iv) In addition, each applicant shall  
21           produce whatever information, documentation  
22           or assurances as may be required to establish  
23           by clear and convincing evidence the adequacy  
24           of financial resources as to the completion of

1 the proposal for the management of the gaming  
2 operation.

3 “(D)(i) Each applicant shall produce such  
4 information, documentation and assurances as  
5 may be required to establish by clear and con-  
6 vincing evidence the applicant’s good character,  
7 honesty and integrity.

8 “(ii) Such information shall include, with-  
9 out limitation, information pertaining to family,  
10 habits, character, reputation, criminal and ar-  
11 rest record, business activities, financial affairs,  
12 and business, professional and personal associ-  
13 ates, covering at least the 10-year period imme-  
14 diately preceding the filing of the application;

15 “(iii) Each applicant shall notify the Com-  
16 mission of any civil judgments obtained against  
17 any such applicant pertaining to antitrust or se-  
18 curity regulation laws of the United States, or  
19 of any state, jurisdiction, province or country.

20 “(iv) In addition, each applicant shall  
21 produce letters of reference from law enforce-  
22 ment agencies having jurisdiction in the appli-  
23 cant’s place of residence and principal place of  
24 business, which letters of reference shall indi-  
25 cate that such law enforcement agencies do not

1 have any pertinent information concerning the  
2 applicant, or if such law enforcement agency  
3 does have information pertaining to the appli-  
4 cant, shall specify what the information is.

5 “(v) If the applicant has managed gaming  
6 operations in a jurisdiction which permits such  
7 activity, the applicant shall produce letters of  
8 reference from the gaming or casino enforce-  
9 ment or control agency which shall specify the  
10 experiences of such agency with the applicant,  
11 his associates, and the gaming operation, pro-  
12 vided that if no such letters are received within  
13 60 days of request therefor, the applicant may  
14 submit a statement under oath that he is or  
15 was during the period such activities were con-  
16 duct in good standing with such gaming or ca-  
17 sino enforcement of control agency.

18 “(E)(i) Each applicant shall produce such  
19 information, documentation and assurances as  
20 may be required to establish by clear and con-  
21 vincing evidence that the applicant has suffi-  
22 cient business ability and gaming management  
23 experience as to establish the likelihood of cre-  
24 ation and maintenance of a successful, efficient  
25 gaming operation;

1           “(ii) The applicant shall produce the  
2 names of all proposed key employees of the pro-  
3 posed gaming operation as they become known  
4 and a description of their respective or proposed  
5 responsibilities, and a full description of secu-  
6 rity systems and management controls proposed  
7 for the gaming operation and related facilities.

8           “(F) Each applicant shall produce such in-  
9 formation, documentation and assurances to en-  
10 able the Commission to comply with the Na-  
11 tional Environmental Policy Act, the National  
12 Historic Preservation Act, and the Endangered  
13 Species Act.

14       “(d) ADDITIONAL REQUIREMENTS.—

15           “(1) In addition to other information required  
16 by this Act, a corporation applying for a license for  
17 the management of a gaming operation shall provide  
18 the following information—

19           “(A) the organization, financial structure  
20 and nature of all businesses operated by the  
21 corporation;

22           “(B) the names and personal employment  
23 and criminal histories of all officers, directors  
24 and principal employees of the corporation;

1           “(C) the names of all holding, intermediary  
2           and subsidiary companies of the corporation;

3           “(D) the organization, financial structure  
4           and nature of all businesses operated by such of  
5           its holding, intermediary such subsidiary com-  
6           panies as the Commission may require, includ-  
7           ing names and personal employment and crimi-  
8           nal histories of such officers, directors and prin-  
9           cipal employee of such corporations and compa-  
10          nies as the Commission may require;

11          “(E) the rights and privileges acquired by  
12          the holders of different classes of authorized se-  
13          curities of such corporations and companies as  
14          the Commission may require, including the  
15          names, addresses and amounts held by all hold-  
16          ers of such securities;

17          “(F) the terms upon which securities have  
18          been or are to be offered;

19          “(G) the terms and conditions of all out-  
20          standing loans, mortgages, trust deeds, pledges  
21          or any other indebtedness of security devices  
22          utilized by the corporation;

23          “(H) the extent of the equity security hold-  
24          ing in the corporation of all officers, directors

1 and underwriters and their remuneration in the  
2 form of salary, wages, fees or otherwise;

3 “(I) names of persons other than directors  
4 and officers who occupy positions specified by  
5 the Commission or whose compensation exceeds  
6 an amount determined by the Commission, and  
7 the amount of their compensation;

8 “(J) a description of all bonus and profit-  
9 sharing arrangements;

10 “(K) copies of all management and service  
11 contacts; and

12 “(L) a listing of stock options existing or  
13 to be credited.

14 “(2) If a corporation applying for a license for  
15 the management of a gaming operation is, or if a  
16 corporation holding a license for the management of  
17 a gaming operation is to become, a subsidiary, each  
18 holding company and each intermediary company  
19 with respect thereto must, as a condition of the said  
20 subsidiary acquiring or retaining such license, as the  
21 case may be—

22 “(A) qualify to do business in one of the  
23 fifty states or with a Federally-recognized In-  
24 dian tribe; and



1           “(B) if it is a corporation, register with  
2           the Commission and furnish the Commission  
3           with all the information required of a corporate  
4           licensee as specified in subsections (A) through  
5           (F) of this section and such other information as  
6           the Commission may require; or

7           “(C) if it is not a corporation, register with  
8           the Commission and furnish the Commission  
9           with such information as the Commission may  
10          prescribe.

11          “(3) No corporation shall be eligible to hold a  
12          license for the management of a gaming operation  
13          unless each officer; each director; each person who  
14          directly or indirectly holds any beneficial interest or  
15          ownership of the securities issued by the corporation;  
16          any person who in the opinion of the Commission  
17          has the ability to control the corporation or elect a  
18          majority of the board of directors of that corpora-  
19          tion, other than a banking or other licensed lending  
20          institution which makes a loan or holds a mortgage  
21          of other lien acquired in the ordinary course of busi-  
22          ness; each principal employee; and any lender, un-  
23          derwriter, agent, employee of the corporation, or  
24          other person whom the Commission may consider  
25          appropriate for approval or qualification would, but

1 for residence, individually be qualified for approval  
2 as a gaming operation key employee pursuant to the  
3 provisions of this Act.

4 “(4) No corporation which is a subsidiary shall  
5 be eligible to receive or hold a licensing for the man-  
6 agement of a gaming operation unless each holding  
7 and intermediary company with respect thereto—

8 “(A) if it is a corporation, shall comply  
9 with the provisions of this section as if said  
10 holding or intermediary company were itself ap-  
11 plying for a license for the management of a  
12 gaming operation, provided that the Commis-  
13 sion may waive compliance with the provisions  
14 of this section on the part of a publicly-traded  
15 corporation which is a holding company as to  
16 any officer, director, lender, underwriter, agent  
17 or employee thereof, or person directly or indi-  
18 rectly holding a beneficial interest or ownership  
19 of the securities of such corporation, where the  
20 Commission is satisfied that such officer, direc-  
21 tor, lender, underwriter, agent or employee in  
22 not significantly involved in the activities of the  
23 corporate licensee, and in the case of security  
24 holders, does not have the ability to control the

1 publicly-traded corporation or elect one or more  
2 directors thereof; or

3 “(B) if it is not a corporation, shall comply  
4 with the provisions of this section as if said  
5 company were itself applying for a license for  
6 the management of a gaming operation.

7 “(5)(A) Any noncorporate applicant for a li-  
8 cense for the management of a gaming operation  
9 shall provide the information required of this section  
10 in such form as may be required by the Commission.

11 “(B) No such applicant shall be eligible to hold  
12 a license for the management of a gaming operation  
13 unless each person who directly or indirectly holds  
14 any beneficial interest or ownership in the applicant,  
15 or who in the opinion of the Commission has the  
16 ability to control the applicant, or whom the Com-  
17 mission may consider appropriate for approval or  
18 qualification, would individually be qualified for ap-  
19 proval as a key employee pursuant to the provisions  
20 of this Act.

21 “(6) Notwithstanding the provisions of this sec-  
22 tion, and in the absence of a prima facie showing  
23 that there is any cause to believe that the institu-  
24 tional investor may be found unqualified, an institu-  
25 tional investor holding either—

1           “(A) under 10 percent of the equity securi-  
2           ties of a holding or intermediary companies of  
3           a licensee for the management of a gaming op-  
4           eration, or

5           “(B) debt securities of a holding or  
6           intermediary companies, or another subsidiary  
7           company of a holding or intermediary compa-  
8           nies which is related in any way to the financ-  
9           ing of the licensee for the management of a  
10          gaming operation, where the securities rep-  
11          resent a percentage of the outstanding debt of  
12          the company not exceeding 20 percent or a per-  
13          centage of any issue of the outstanding debt of  
14          the company not exceeding 50 percent shall be  
15          granted a waiver of qualification if such securi-  
16          ties are those of a publicly traded corporation  
17          and its holdings of such securities were pur-  
18          chased for investment purposes only and upon  
19          request by the Commission, it files with the  
20          Commission a certified statement to the effect  
21          that it has no intention of influencing or affect-  
22          ing the affairs of the issuer, the licensee for the  
23          management of a gaming operation or its hold-  
24          ing or intermediary companies, provided that it

1 shall be permitted to vote on matters put to the  
2 vote of the outstanding security holders;

3 “(C) the Commission may grant a waiver  
4 of qualification to an institutional investor hold-  
5 ing a higher percentage of such securities upon  
6 a showing of good cause and if the conditions  
7 specified in this subsection are met;

8 “(D) any institutional investor granted a  
9 waiver under this subsection which subsequently  
10 determines to influence or affect the affairs of  
11 the issuer shall provide not less than 30 days  
12 notice of such intent and shall file with the  
13 Commission an application for qualification be-  
14 fore taking any action that may influence or af-  
15 fect the affairs of the issuer, provided that it  
16 shall be permitted to vote on matters put to the  
17 vote of the outstanding security holders;

18 “(E) if an institutional investor changes its  
19 investment intent, or if the Commission finds  
20 reasonable cause to believe that the institutional  
21 investor may be found unqualified, no action  
22 other than divestiture shall be taken by such in-  
23 vestor with respect to its security holdings until  
24 there has been compliance with the provisions

1 of this Act including the execution of a trust  
2 agreement; or

3 “(F) the licensee for the management of a  
4 gaming operation and its relevant holding,  
5 intermediary or subsidiary company shall imme-  
6 diately notify the Commission of any informa-  
7 tion about, or actions of, an institutional inves-  
8 tor holding its equity or debt securities where  
9 such information or action may have an impact  
10 upon the eligibility of such institutional investor  
11 for a waiver pursuant to this subsection.

12 “(7) If at any time the Commission finds that  
13 an institutional investor holding any security of a  
14 holding or intermediary company of a licensee for  
15 the management of a gaming operation, or, where  
16 relevant, of another subsidiary company of a holding  
17 or intermediary company of a licensee for the man-  
18 agement of a gaming operation which is related in  
19 any way to the financing of the licensee for the man-  
20 agement of a gaming operation, fails to comply with  
21 the terms of this section, or if at any time the Com-  
22 mission finds that, by reason of the extent or nature  
23 of its holdings, an institutional investor is in a posi-  
24 tion to exercise such a substantial impact upon the  
25 controlling interests of a licensee that qualification

1 of the institutional investor is necessary to protect  
2 the public interest, the Commission may, in accord-  
3 ance with the provisions of this section of this Act,  
4 take any necessary action to protect the public inter-  
5 est, including requiring such an institutional investor  
6 to be qualified pursuant to the provisions of this  
7 Act.

8 “(e) LICENSING OF KEY EMPLOYEES OF GAMING  
9 OPERATIONS.—

10 “(1) No person may be employed as a key em-  
11 ployee of a class III gaming operation unless he is  
12 the holder of a valid gaming operation key employee  
13 license issued by the Commission.

14 “(2) Each applicant must, prior to the issuance  
15 of any gaming operation key employee license,  
16 produce information, documentation and assurances  
17 concerning the following qualification criteria—

18 “(A) each applicant for a gaming operation  
19 key employee license shall produce such infor-  
20 mation, documentation and assurances as may  
21 be required to establish by clear and convincing  
22 evidence the financial stability, integrity and re-  
23 sponsibility of the applicant, including but not  
24 limited to bank references, business and per-  
25 sonal income and disbursements schedules, tax

1 returns and other reports filed with govern-  
2 mental agencies, and business and personal ac-  
3 counting and check records and ledgers;

4 “(B) in addition, each applicant shall, in  
5 writing, authorize the examination of all bank  
6 accounts and records as may be deemed nec-  
7 essary by the Commission;

8 “(C) each applicant for a gaming operation  
9 key employee license shall produce such infor-  
10 mation, documentation and assurances as may  
11 be required to establish by clear and convincing  
12 evidence the applicant’s good character, honesty  
13 and integrity;

14 “(D) such information shall include, with-  
15 out limitation, data pertaining to family, habits,  
16 character, reputation, criminal and arrest  
17 record, business activities, financial affairs, and  
18 business, professional and personal associates  
19 covering at least the 10-year period immediately  
20 preceding the filing of the application;

21 “(E) each applicant shall notify the Com-  
22 mission of any civil judgments obtained against  
23 such applicant pertaining to antitrust or secu-  
24 rity regulation laws of the United States or of



1 any state or of any jurisdiction, province or  
2 country;

3 “(F) in addition, each applicant shall,  
4 upon request of the Commission, produce let-  
5 ters of reference from law enforcement agencies  
6 having jurisdiction in the applicant’s place of  
7 residence and principal place of business, which  
8 letters of reference shall indicate that such law  
9 enforcement agencies do not have any pertinent  
10 information concerning the applicant, or if such  
11 law enforcement agency does have information  
12 pertaining to the applicant, shall specify what  
13 that information is;

14 “(G) if the applicant has been associated  
15 with gaming operations in any capacity, posi-  
16 tion or employment in a jurisdiction which per-  
17 mits such activity, the applicant shall, upon re-  
18 quest of the Commission, produce letters of ref-  
19 erence from the gaming or casino enforcement  
20 or control agency, which shall specify the expe-  
21 rience of such agency with the applicant, his as-  
22 sociates and his participation in the gaming op-  
23 erations of that jurisdiction, provided that if no  
24 such letters are received from the appropriate  
25 laws enforcement agencies within 60 days of the

1 applicant's request therefor, the applicant may  
2 submit a statement under oath that he is or  
3 was during the period such activities were con-  
4 ducted in good standing with such gaming or  
5 casino enforcement or control agency; and

6 “(H) each applicant shall produce such in-  
7 formation, documentation and assurances as  
8 may be required to establish by clear and con-  
9 vincing evidence that the applicant has suffi-  
10 cient business ability and gaming operation ex-  
11 perience as to establish the reasonable likeli-  
12 hood of success and efficiency in the particular  
13 position involved.

14 “(3) The Commission shall endorse upon any li-  
15 cense issued hereunder the particular positions as  
16 defined by this Act or by regulation which the li-  
17 censee is qualified to hold.

18 “(4) The Commission shall deny a gaming oper-  
19 ation key employee license to any applicant who is  
20 disqualified on the basis of the criteria contained in  
21 section 7(c)(4) of this Act.

22 “(5) For the purposes of this section, gaming  
23 operation security employees shall be considered key  
24 employees of a gaming operation.

1           “(6) Key employees of a gaming operation di-  
2           rectly related to gaming operation shall include, but  
3           not be limited to, boxmen, floormen, dealers or crou-  
4           piers, cage personnel, count room personnel, slot and  
5           slot booth personnel, credit and collection personnel,  
6           gaming operation surveillance personnel, and gaming  
7           operation security employees whose employment du-  
8           ties require or authorize access to the gaming oper-  
9           ation facility.

10          “(f) LICENSING AND REGISTRATION OF GAMING-RE-  
11       LATED CONTRACTORS AND SERVICE INDUSTRIES.—

12           “(1)(A) All gaming-related contractors and  
13           gaming service industries offering goods or services  
14           which directly relate to a gaming operation, includ-  
15           ing gaming equipment manufacturers, suppliers and  
16           repairers, schools teaching gaming and either play-  
17           ing or dealing techniques, and gaming operation se-  
18           curity services, shall be licensed in accordance with  
19           the provisions of this Act prior to conducting any  
20           business whatsoever with a gaming operation appli-  
21           cant or licensee, its employees or agents, and in the  
22           case of a school, prior to enrollment of any students  
23           or offering of any courses to the public whether for  
24           compensation or not, provided that upon a showing  
25           of good cause by gaming operation applicant or li-

1       censee for each business transaction, the Commis-  
2       sion may permit an applicant for a gaming-related  
3       contractor or gaming service industry license to con-  
4       duct business transactions with such gaming oper-  
5       ation applicant or licensee prior to the licensure of  
6       that gaming-related contractor or gaming service in-  
7       dustry applicant under this subsection.

8           “(B)(i) In addition to the requirements of para-  
9       graph (A) of this subsection, any gaming-related  
10      contractor or gaming service industry intending to  
11      manufacture, sell, distribute or repair gambling de-  
12      vices, other than antique slot machines, shall be li-  
13      censed in accordance with the provisions of this Act  
14      prior to engaging in any such activities: *Provided*,  
15      That—

16           “(ii) upon a showing of good cause by a gaming  
17      operation applicant or licensee for each business  
18      transaction, the Commission may permit an appli-  
19      cant for a gaming-related contractor or gaming serv-  
20      ice industry license to conduct business transactions  
21      with the gaming operation applicant or licensee prior  
22      to the licensure of that contractor or service industry  
23      applicant under this subsection: *Provided further*,  
24      That—

1           (iii) upon a showing of good cause by an appli-  
2           cant required to be licensed as gaming-related con-  
3           tractor or gaming service industry pursuant to this  
4           paragraph, the Commission may permit the contrac-  
5           tor or service industry applicant to initiate the man-  
6           ufacture of gambling devices or engage in the sale,  
7           distribution or repair of gambling devices with any  
8           person other than a gaming operation applicant or  
9           licensee, its employees or agents, prior to the licen-  
10          sure of that contractor or service industry applicant  
11          under this subsection.

12           “(2)(A) Each gaming-related contractor or  
13           gaming service industry in subsection (1) of this sec-  
14           tion, as well as its owners, management and super-  
15           visory personnel and other principal employees must  
16           qualify under the standards established for qualifica-  
17           tion of a gaming operation key employee under this  
18           Act;

19           “(B) In addition, if the business or enterprise  
20           is a school teaching gaming and either playing or  
21           dealing techniques, each director, instructor, prin-  
22           cipal employee, and sales representative employed  
23           thereby shall be licensed under the standards estab-  
24           lished for qualification of a key gaming operation  
25           employee under this Act, provided that nothing in

1       this subsection shall be deemed to require, in the  
2       case of a public school district or a public institution  
3       of higher education, the licensure or qualification of  
4       any individuals except those instructors and other  
5       principal employees responsible for the teaching of  
6       playing or dealing techniques;

7               “(C) The Commission, in its discretion, may  
8       issue a temporary license to an applicant for an in-  
9       structor’s license upon a finding that the applicant  
10      meets the educational and experiential requirements  
11      for such license, that the issuance of a permanent li-  
12      cense will be restricted by necessary investigations,  
13      and that temporary licensing is necessary for the op-  
14      eration of a gaming school.

15             “(3)(A) All gaming-related contractors and  
16      gaming service industries not included in subsection  
17      (1) of this section shall be licensed in accordance  
18      with rules of the Commission prior to commence-  
19      ment or continuation of any business with a gaming  
20      operation applicant or licensee or its employees or  
21      agents.

22             “(B) Such gaming-related contractors and gam-  
23      ing service industries, whether or not directly related  
24      to gaming operations, shall include any person, en-

1       tity or enterprise contracting with gaming operation  
2       applicants or licensees or their employees or agents.

3           “(C) The Commission may exempt any person  
4       or field of commerce from the licensing requirements  
5       of this subsection if the person or field of commerce  
6       demonstrates—

7           “(i) that it is regulated by a public agency  
8       or that it will provide goods or services in in-  
9       substantial or insignificant amounts or quan-  
10      tities, and

11          “(ii) that licensing is not deemed necessary  
12      in order to protect the public interest or to ac-  
13      complish the policies established by this Act.

14          “(D) Upon granting an exemption or at any  
15      time thereafter, the Commission may limit or place  
16      such restrictions thereupon as it may deem nec-  
17      essary in the public interest, and shall require the  
18      exempted person to cooperate with the Commission  
19      and, upon request, to provide information in the  
20      same manner as required of a gaming-related con-  
21      tractor or gaming service industry licensed pursuant  
22      to this subsection, provided that no exemption be  
23      granted unless the gaming-related contractor or  
24      gaming service industry complies with the require-  
25      ments of this section of this Act.”.

1       (8) Section 9 of the Act (25 U.S.C. 2708) is amended  
2 to read as follows:

3       **“SEC. 9. REQUIREMENTS FOR THE CONDUCT OF CLASS I**  
4               **AND CLASS II GAMING ON INDIAN LANDS.**

5       “(a) CLASS I GAMING.—Class I gaming on Indian  
6 lands is within the exclusive jurisdiction of the Indian  
7 tribes and shall not be subject to the provisions of this  
8 Act;

9       “(b) CLASS II GAMING.—(1) Any Class II gaming  
10 on Indian lands shall continue to be within the jurisdiction  
11 of the Indian tribes, but shall be subject to the provisions  
12 of this Act.

13       “(2) An Indian tribe may engage in, or license and  
14 regulate class II gaming on Indian lands within such  
15 tribe’s jurisdiction, if—

16               “(A) such Indian gaming is located within a  
17 State that permits such gaming for any purpose by  
18 any person, organization or entity;

19               “(B) such gaming is not otherwise specifically  
20 prohibited on Indian lands by Federal law; and

21               “(C) the Class II gaming operation meets the  
22 requirements of sections 7 and 9 of this Act.

23       “(3) The Commission shall insure that any class II  
24 gaming operation on Indian lands meets the following re-  
25 quirements—



1           “(A) a separate license is issued by the Indian  
2       tribe for each place, facility, or location on Indian  
3       lands at which Class II gaming is conducted;

4           “(B) the Indian tribe has or will have the sole  
5       proprietary interest and responsibility for the con-  
6       duct of any Class II gaming activity, unless the con-  
7       ditions of subsection (3)(I) of this section apply;

8           “(C) net revenues from any Class II gaming ac-  
9       tivity are not to be used for purposes other than—

10           “(i) to fund tribal government operations  
11       or programs;

12           “(ii) to provide for the general welfare of  
13       the Indian tribe and its members;

14           “(iii) to promote tribal economic develop-  
15       ment;

16           “(iv) to donate to charitable organizations;  
17       or

18           “(v) to help fund operations of local gov-  
19       ernment agencies;

20           “(D) annual outside audits of the gaming,  
21       which may be encompassed within existing independ-  
22       ent tribal audit systems, are provided by the Indian  
23       tribal government to the Commission;

24           “(E) all contracts for supplies, services, or con-  
25       cessions for a contract amount in excess of \$10,000

1 annually, except contracts for professional legal or  
2 accounting services, relating to such gaming shall be  
3 subject to such independent audits and audit by the  
4 Commission;

5 “(F) the construction and maintenance of a  
6 Class II gaming facility, and the operation of Class  
7 II gaming is conducted in a manner which ade-  
8 quately protects the environment and the public  
9 health and safety; and

10 “(G) there is an adequate system which—

11 “(i) ensures that background investigations  
12 are conducted on primary management officials,  
13 key employees and persons having a material  
14 involvement, either directly or indirectly, in a li-  
15 censed Class II gaming operation, and gaming-  
16 related contractors associated with a licensed  
17 Class II gaming operation and that oversight of  
18 such officials and their management is con-  
19 ducted on an ongoing basis; and

20 “(ii) includes—

21 “(I) tribal licenses for persons in-  
22 volved in Class II gaming operations, in-  
23 cluding but not limited to key employees,  
24 gaming related contractors, gaming service  
25 industries, and any persons having a mate-

1           rial involvement, either directly or indi-  
2           rectly, with a licensed gaming operation in  
3           accordance with section 8 of this Act;

4           “(II) a standard whereby any person  
5           whose prior activities, criminal record, if  
6           any, or reputation, habits, and associations  
7           pose a threat to the public interest or to  
8           the effective regulation of gaming, or cre-  
9           ate or enhance the dangers of unsuitable,  
10          unfair, or illegal practices and methods  
11          and activities in the conduct of gaming  
12          shall not be eligible for employment; and

13          “(III) notification by the Indian tribal  
14          government to the Commission of the re-  
15          sults of such background investigation be-  
16          fore the issuance of any of such licenses;

17          “(H) net revenues from any Class II gaming  
18          activities conducted or licensed by any Indian tribal  
19          government may be used to make per capita pay-  
20          ments to members of the Indian tribe only if—

21                  “(i) the Indian tribe has prepared a plan  
22                  to allocate revenues to uses authorized by para-  
23                  graph (3)(C) of this section;

24                  “(ii) the plan is approved by the Secretary  
25                  as adequate, particularly with respect to uses

1 described in clause (i) or (iii) of paragraph  
2 (3)(C) of this section;

3 “(iii) the interests of minors and other le-  
4 gally incompetent persons who are entitled to  
5 receive any of the per capita payments are pro-  
6 tected and preserved and the per capita pay-  
7 ments are disbursed to the parents or legal  
8 guardian of such minors or legal incompetents  
9 in such amounts as may be necessary for the  
10 health, education, or welfare of the minor or  
11 other legally incompetent person under a plan  
12 approved by the Secretary and the governing  
13 body of the Indian tribe; and

14 “(iv) the per capita payments are subject  
15 to federal taxation and tribes notify members of  
16 such tax liability when payments are made;

17 “(I)(i) a separate license is issued for any Class  
18 II gaming operation owned by any person or entity  
19 other than the Indian tribal government and con-  
20 ducted on Indian lands, and such license includes  
21 the requirements set forth in the subclauses of sub-  
22 paragraph (C)(i) and are at least as restrictive as  
23 those established by State law governing similar  
24 gaming within the jurisdiction of the State within  
25 which such Indian lands are located;

1           “(ii) no person or entity, other than the Indian  
2       tribal government, shall be eligible to receive a tribal  
3       license to own a Class II gaming operation con-  
4       ducted on Indian lands within the jurisdiction of the  
5       Indian tribe if such person or entity would not be el-  
6       igible to receive a State license to conduct the same  
7       activity within the jurisdiction of the State;

8           “(iii) the provisions of subparagraph (i) of this  
9       paragraph and the provisions of subparagraphs (B)  
10      and (C) of subsection (3) shall not bar the continued  
11      operation of an individually-owned Class II gaming  
12      operation that was operating on September 1, 1986,  
13      if—

14           “(I) such gaming operation is licensed and  
15      regulated by an Indian tribal government;

16           “(II) income to the Indian tribal govern-  
17      ment from such gaming is used only for the  
18      purposes described in paragraph (c)(3) of this  
19      subsection,

20           “(III) not less than 60 percent of the net  
21      revenues is income to the licensing tribal gov-  
22      ernment, and

23           “(IV) the owner of such gaming operation  
24      pays an appropriate assessment to the Commis-

1           sion under section 15 for regulation of such  
2           gaming;

3           “(iv) the exemption from application of this  
4           subsection provided under this subparagraph may  
5           not be transferred to any person or entity and shall  
6           remain in effect only so long as the gaming oper-  
7           ation remains within the same nature and scope as  
8           operated on October 17, 1988; and

9           “(v) the Commission shall maintain a list of  
10          each individually-owned gaming operation to which  
11          clause (iii) applies and shall publish such list in the  
12          Federal Register.

13          “(c) LICENSE REVOCATION.—If, after the issuance  
14          of a license by an Indian tribal government, reliable infor-  
15          mation is received from the Commission indicating that  
16          any licensee does not meet the standards established under  
17          section 8 and the regulations promulgated by the Commis-  
18          sion, the Indian tribal government shall suspend such li-  
19          cense and, after notice and hearing, may revoke such li-  
20          cense.”.

21          “(9) Section 10 of the Act (25 U.S.C. 2709) is  
22          amended to read as follows:

23          **“SEC. 10. CLASS III GAMING ON INDIAN LANDS.**

24          “(a) REQUIREMENTS FOR THE CONDUCT OF CLASS  
25          III GAMING ON INDIAN LANDS.—

1           “(1) Class III gaming activities shall be lawful  
2           on Indian lands only if such activities are—

3                   “(A) authorized by a compact that—

4                           “(i) is adopted by the governing body  
5                           of the Indian tribe having jurisdiction over  
6                           such lands,

7                           “(ii) meets the requirements of sub-  
8                           section (b) of this section, and

9                           “(iii) is approved by the Secretary;

10                   “(B) located in a State where the require-  
11                   ments of this section of the Act are satisfied,  
12                   and the gaming activity is determined to be eli-  
13                   gible for inclusion in a compact in accordance  
14                   with the provisions of this section of the Act;

15                   “(C) conducted in conformance with a  
16                   compact entered into by the Indian tribe under  
17                   paragraph (3) that is in effect; and

18                   “(D) the Class III gaming operation meets  
19                   the requirements of Sections 7, 8, 10 and 11 of  
20                   this Act.

21           “(2)(A) The governing body of an Indian tribe,  
22           in its sole discretion, may adopt an ordinance or res-  
23           olution revoking any prior ordinance or resolution  
24           that authorized Class III gaming on the Indian  
25           lands of the Indian tribe. Such revocation shall

1 render Class III gaming illegal on the Indian lands  
2 of such Indian tribe.

3 “(B) The Indian tribe shall submit any revoca-  
4 tion ordinance or resolution described in subpara-  
5 graph (A) to the Chairman. The Chairman shall  
6 publish such ordinance or resolution in the Federal  
7 Register and the revocation provided by such ordi-  
8 nance or resolution shall take effect on the date of  
9 such publication.

10 “(C) Notwithstanding any other provision of  
11 this subsection—

12 “(i) any person or entity operating a Class  
13 III gaming activity pursuant to this paragraph  
14 on the date on which an ordinance or resolution  
15 described in subparagraph (A) that revokes au-  
16 thorization for such Class III gaming activity is  
17 published in the Federal Register may, during  
18 the 1-year period beginning on the date on  
19 which such revocation ordinance or resolution is  
20 published under subparagraph (B), continue to  
21 operate such activity in conformance with the  
22 compact entered into under paragraph (3) that  
23 is in effect; and

24 “(ii) any civil action that arises before, and  
25 any crime that is committed before, the close of



1           such 1-year period shall not be affected by such  
2           revocation ordinance or resolution.

3           “(3)(A)(i) Any Indian tribe having jurisdiction  
4           over the lands upon which a Class III gaming activ-  
5           ity is to be conducted may request the Secretary to  
6           enter into negotiations for a compact.

7           “(ii) Such request shall be in writing and shall  
8           specify the gaming activity or activities to be in-  
9           cluded in the compact and within 30 days the Sec-  
10          retary shall determine if any such requested activi-  
11          ties should not be included in the compact under the  
12          laws of the State in which the Indian tribe is located  
13          in conformity with the standards set forth in sub-  
14          paragraphs (C) and (D) of this subsection and shall  
15          so notify the Indian tribe.

16          “(iii) Such negotiations shall be completed with-  
17          in 120 days after the expiration of the 60-day period  
18          in subparagraph (B)(iii) of this subsection.

19          “(iv) Any compact negotiated under this para-  
20          graph shall be effective upon its publication in the  
21          Federal Register by the Secretary.

22          “(v) The Commission, pursuant to section 7,  
23          shall monitor, regulate and license Class III gaming  
24          with respect to any compact negotiated under this

1 paragraph and published by the Secretary in the  
2 Federal Register.

3 “(vi) Any compact negotiated under this para-  
4 graph shall be for a fixed term of years, consistent  
5 with the purposes of this Act.

6 “(vii) A tribal request for a change in a com-  
7 pact shall be considered a request for purposes of  
8 this subsection.

9 “(B)(i) When an Indian tribe makes a request  
10 pursuant to subparagraph (A), it shall also notify  
11 the State within which the gaming activity is to be  
12 conducted.

13 “(ii) Such notice to the State shall include the  
14 specific gaming activities which the Indian tribe is  
15 requesting that the Secretary include in the com-  
16 pact.

17 “(iii) Within 60 days from such notification, the  
18 State may request the Indian tribe to enter into ne-  
19 gotiations for a compact. The State and Indian tribe  
20 by mutual agreement may extend the 60-day period.

21 “(iv) When a State requests an Indian tribe to  
22 negotiate a compact within the designated time pe-  
23 riod, that request shall toll the operation of subpara-  
24 graph (A), and shall be deemed to constitute a vol-

1        untary waiver of the sovereign immunity of the State  
2        for the purposes of this Act.

3            “(C) Any compact negotiated under subpara-  
4        graph (A) may include provisions relating to—

5            “(i) the application of the criminal and  
6        civil laws and regulations of the Indian tribe or  
7        the State that are directly related to, and nec-  
8        essary for, the licensing and regulation of such  
9        activity;

10          “(ii) the allocation of criminal and civil ju-  
11        risdiction between the State and the Indian  
12        tribe necessary for the enforcement of such laws  
13        and regulations;

14          “(iii) the assessment by the State of such  
15        activities in such amounts as are necessary to  
16        defray the costs of regulating such activity;

17          “(iv) taxation by the Indian tribe of such  
18        activity in amounts comparable to amounts as-  
19        sessed by the State for comparable activities;

20          “(v) remedies for breach of contract;

21          “(vi) standards for the operation of such  
22        activity and maintenance of the gaming facility,  
23        including licensing; and

24          “(vii) any other subjects that are reason-  
25        ably related to the operation of gaming activi-

1           ties, and the impact on tribal, State, and local  
2           governments.

3           “(4) Except for any assessments for services  
4           agreed to by an Indian tribe in compact negotia-  
5           tions, nothing in this section shall be construed as  
6           conferring upon a State or any of its political sub-  
7           divisions the authority to impose any tax, fee, charge  
8           or other assessment upon an Indian tribe, an Indian  
9           gaming operation or the value generated therein, or  
10          any person or entity authorized by an Indian tribe  
11          to engage in a Class III gaming activity in conform-  
12          ity with the provisions of this Act.

13          “(5) Nothing in this subsection shall impair the  
14          right of an Indian tribe to regulate Class III gaming  
15          on its Indian lands concurrently with the State and  
16          the Commission, except to the extent that such regu-  
17          lation is inconsistent with, or less stringent than,  
18          this Act or the laws and regulations made applicable  
19          by any compact entered into by the Indian tribe  
20          under paragraph (3) that is in effect.

21          “(6) The provisions of section 5 of the Act of  
22          January 2, 1951 (15 U.S.C. 1175) shall not apply  
23          to any gaming activity conducted pursuant to a com-  
24          pact entered into after the effective date of the In-  
25          dian Gaming Regulatory Act Amendments Act, but

1 in no event shall this paragraph, as amended by  
2 such Act, be construed as invalidating any exemp-  
3 tion from section 5 under this Act prior to its enact-  
4 ment by the Indian Gaming Regulatory Act Amend-  
5 ments Act of 1994, or under any compact, or proce-  
6 dure in lieu of a compact, in effect on the date of  
7 enactment of the Indian Gaming Regulatory Act  
8 Amendments Act.

9 “(7)(A) The United States district courts shall  
10 have jurisdiction over—

11 “(i) any cause of action for a declaratory  
12 judgment brought by an Indian tribe or a State  
13 pursuant to subparagraph (C), or the review of  
14 any decision by the Secretary with regard to the  
15 gaming activities which are subject to inclusion  
16 in a compact or to resolve any dispute pursuant  
17 to subparagraph (E) or (F);

18 “(ii) any cause of action initiated by a  
19 State or Indian tribe to enjoin a Class III gam-  
20 ing activity located on Indian lands and con-  
21 ducted in violation of any compact entered into  
22 under paragraph (3) that is in effect; or

23 “(iii) any cause of action initiated by the  
24 Secretary to enforce any provision of a compact.

1           “(B)(i) Where a State elects to negotiate a  
2 compact, within 30 days after notice of the election,  
3 the State shall notify the tribe if it determines that  
4 any gaming activity requested is prohibited as a  
5 matter of State criminal law and is not otherwise  
6 subject to negotiation under this Act.

7           “(ii) Following the State’s notification to the  
8 tribe of its determination, the parties shall have 30  
9 days in which to meet and confer to resolve any dis-  
10 pute regarding the State’s determination.

11           “(iii) Notwithstanding any declaratory judg-  
12 ment action pending under subparagraph (C), a  
13 tribe and State may negotiate and establish proce-  
14 dures for mediating any issue not subject to the de-  
15 claratory judgment action.

16           “(C) No later than 120 days after the State  
17 has notified the tribe of its election to negotiate a  
18 compact, or such longer period as may be agreed to  
19 in writing by the parties, either party may initiate  
20 an action in an appropriate United States district  
21 court for a declaration whether the disputed gaming  
22 activity is subject to compact negotiation under this  
23 Act. In any such declaratory action, the court shall  
24 declare that the disputed gaming activity as a mat-

1       ter of Federal law shall be the subject of negotiation  
2       if it finds that—

3               “(i) the disputed gaming activity is not  
4               prohibited as a matter of State criminal law, or

5               “(ii) even if the disputed activity is prohib-  
6               ited as a matter of State criminal law, the gam-  
7               ing activity meets one or more of the following  
8               criteria:

9                       “(I) Its principal characteristics are  
10                      not distinguishable from a gaming activity  
11                      that is not prohibited by State criminal law  
12                      and there is no rational basis for differen-  
13                      tiating between the disputed gaming activ-  
14                      ity and the activity not prohibited by the  
15                      State.

16                     “(II) State law permits the disputed  
17                     gaming activity subject to regulation.

18                     “(III) As a matter of State law any  
19                     person, organization, or entity within the  
20                     State may engage in the disputed gaming  
21                     activity for any purpose, except that the  
22                     permitting of a social gaming activity does  
23                     not make that activity subject to negotia-  
24                     tions pursuant to this section after the  
25                     date of the enactment of the Indian Gam-

1           ing Regulatory Act Amendments Act; pro-  
2           vided that this exception shall have no ef-  
3           fect on the continued validity of any com-  
4           pacts or procedures in lieu thereof which  
5           are in effect on the date of enactment of  
6           the Indian Gaming Regulatory Act Amend-  
7           ments Act.

8           “(D) In any determination of whether a gaming  
9           activity is subject to compact negotiation under this  
10          Act, the following categories of gaming activities are  
11          distinguishable from each other:

12               “(i) Gambling device.

13               “(ii) Lottery game.

14               “(iii) Banking game.

15               “(iv) Parimutuel wagering.

16               “(v) Other games of chance.

17          “(E) Where the State elects to negotiate a com-  
18          pact under this Act, the negotiation shall be com-  
19          pleted within 120 days after the expiration of the  
20          60-day period in paragraph (3)(B)(iii) of this sub-  
21          section, unless the State and Indian tribe by mutual  
22          agreement extend the time period.

23          “(F) The Secretary in consultation with the In-  
24          dian tribes and the States shall develop a panel of  
25          independent mediators which shall be periodically



1 updated. If after 120 days from a State's request for  
2 negotiations or a final declaratory judgment not sub-  
3 ject to further review, the State and Indian tribe  
4 have not agreed to recommend a compact to the Sec-  
5 retary, the State and Indian tribe shall enter into  
6 compulsory mediation, pursuant to the following pro-  
7 cedures:

8           “(i) The Secretary shall provide the State  
9 and Indian tribe with a list of names of 3 medi-  
10 ators randomly selected from the panel of inde-  
11 pendent mediators. The State and Indian tribe  
12 each shall remove a different 1 of the 3 from  
13 the list, and the remaining mediator shall con-  
14 duct the mediation.

15           “(ii) The mediator shall attempt to achieve  
16 a compact within a 60-day period, which period  
17 may be extended at the agreement of the State  
18 and Indian tribe.

19           “(iii) If compulsory mediation fails, the  
20 State and Indian tribe shall submit their last  
21 best offer to the mediator, who shall evaluate  
22 the offers under the terms of the Act and rec-  
23 ommend a compact to the Secretary, except  
24 that by mutual agreement the parties may sub-  
25 stitute either compulsory arbitration, or a deci-

1           sion by the Secretary instead of a mediator’s  
2           recommendation.

3           “(iv) The recommended compact also shall  
4           include such provisions which in the opinion of  
5           the mediator or arbitrator best meet the objec-  
6           tives of this Act and are consistent with any de-  
7           claratory judgment issued pursuant to subpara-  
8           graph (C).

9           “(G) If the parties or the mediator or arbitrator  
10          pursuant to this paragraph recommend a compact to  
11          the Secretary, the Secretary shall approve such com-  
12          pact and shall publish it in the Federal Register; ex-  
13          cept that the compact shall not be approved by the  
14          Secretary unless it contains provisions for internal  
15          controls which are consistent with this Act and the  
16          regulations promulgated by the Commission, includ-  
17          ing, without limitation, provisions relating to cash  
18          flow transactions, recordkeeping and reporting, ac-  
19          counting, security, licensing and training of employ-  
20          ees, and related matters. The compact also shall not  
21          be approved if it violates—

22               “(i) any provision of this Act or the regula-  
23          tions promulgated by the Commission;

1           “(ii) any other provision of Federal law  
2           that does not relate to jurisdiction over gaming  
3           on Indian reservations; or

4           “(iii) the trust obligations of the United  
5           States to Indians.

6           “(H) Except for an appeal under subchapter II  
7           of chapter 5, of title 5, United States Code, by an  
8           Indian tribe or State on the publication of a com-  
9           pact, publication of a compact pursuant to this sub-  
10          section which permits a form of Class III gaming  
11          shall, for the purposes of this Act, be conclusive evi-  
12          dence that such Class III gaming is an activity sub-  
13          ject to negotiations under the laws of the State  
14          where the gaming is to be conducted, in any matter  
15          under consideration by the Commission or a Federal  
16          court.

17          “(I) If the Secretary does not approve or dis-  
18          approve a compact under this subsection before the  
19          date that is 45 days after the date that the compact  
20          is submitted to the Secretary for approval, or after  
21          the expiration of the 180-day period with respect to  
22          the last compact proposal in subparagraph (3), the  
23          compact shall be considered approved, but only to  
24          the extent that the compact is consistent with the

1 provisions of this Act and any regulations promul-  
2 gated by the Commission.

3 “(J) The Secretary shall publish in the Federal  
4 Register notice of any compact that has been ap-  
5 proved, or considered to have been approved, under  
6 this paragraph.

7 “(8)(A) The Secretary is authorized to approve  
8 any compact entered into between an Indian tribe  
9 and a State governing gaming on Indian lands of  
10 such Indian tribe.

11 “(B) The Secretary may disapprove a compact  
12 described in subparagraph (A) only if such compact  
13 violates—

14 “(i) any provision of this Act or the regula-  
15 tions promulgated by the Commission;

16 “(ii) any other provision of Federal law  
17 that does not relate to jurisdiction over gaming  
18 on Indian lands, or

19 “(iii) the trust obligations of the United  
20 States to Indians.

21 “(C) If the Secretary does not approve or dis-  
22 approve a compact described in subparagraph (A)  
23 before the date that is 45 days after the date on  
24 which the compact is submitted to the Secretary for  
25 approval, the compact shall be considered to have

1       been approved by the Secretary, but only to the ex-  
2       tent the compact is consistent with the provisions of  
3       this Act and the regulations promulgated by the  
4       Commission.

5           “(D) The Secretary shall publish in the Federal  
6       Register notice of any compact that is approved, or  
7       considered to have been approved, under this para-  
8       graph.

9           “(b) EFFECT OF AMENDMENTS.—Class III gaming  
10      activities that are as a matter of Federal law, lawful in  
11      any jurisdiction on the date of enactment of the Indian  
12      Gaming Regulatory Act Amendments Act of 1994, shall  
13      notwithstanding any provisions of this Act, remain lawful  
14      for purposes of section 10.”.

15      (10) Section 11 of the Act (25 U.S.C. 2710) is  
16      amended to read as follows:

17      **“SEC. 11. REVIEW OF CONTRACTS.**

18           “(a) CONTRACTS INCLUDED.—The Commission shall  
19      review and approve or disapprove—

20           “(1) any management contract for the oper-  
21      ation and management of any gaming activity that  
22      an Indian tribe may engage in under the Act; and

23           “(2) gaming-related contracts.

24           “(b) MANAGEMENT CONTRACT REQUIREMENTS.—  
25      The Commission shall approve any management contract

1 between an Indian tribe and a person or entity licensed  
2 by an Indian tribe or the Commission which is entered  
3 into pursuant to this Act only if it determines that the  
4 contract provides for—

5       “(1) adequate accounting procedures that are  
6 maintained and for verifiable financial reports that  
7 are prepared by or for the governing body of the In-  
8 dian tribe on a monthly basis;

9       “(2) access to the daily gaming operations by  
10 appropriate officials of the Indian tribe who shall  
11 have the right to verify the daily gross revenues and  
12 income derived from any gaming activity;

13       “(3) a minimum guaranteed payment to the In-  
14 dian tribe that has preference over the retirement of  
15 any development and construction costs;

16       “(4) an agreed upon ceiling for the repayment  
17 of any development and construction costs;

18       “(5) grounds and mechanisms for the termi-  
19 nation of the contract, but any such termination  
20 shall not require the approval of the Commission;  
21 and

22       “(6) such other provisions as the Commission  
23 deems necessary as provided for in regulations pro-  
24 mulgated by the Commission.

1       “(c) MAXIMUM TERMS AND FEES FOR MANAGEMENT  
2 CONTRACTS.—The Commission may approve a manage-  
3 ment contract providing for a fee of up to 40 percent of  
4 net revenues from an Indian gaming activity determined  
5 in accordance with generally accepted accounting prin-  
6 ciples and a term of up to ten years, pursuant to regula-  
7 tions to be promulgated by the Commission. Such regula-  
8 tions shall take into consideration the nature of the man-  
9 agement services being provided, the capital investment  
10 being made, the income projections for the particular gam-  
11 ing activity, and any other factors the Commission deems  
12 relevant.

13       “(d) GAMING-RELATED CONTRACT REQUIRE-  
14 MENTS.—The Commission shall approve a gaming related  
15 contract between an Indian tribe and a person or entity  
16 licensed by the Commission which is entered into pursuant  
17 to this Act only if it determines that the contract provides  
18 for—

19               “(1) grounds and mechanisms for termination  
20 of the contract, but such termination shall not re-  
21 quire the approval of the Commission; and

22               “(2) such other provisions as the Commission  
23 deems necessary as provided for in regulations pro-  
24 mulgated by the Commission.

1       “(e) TIME PERIOD FOR REVIEW.—By no later than  
2 the date that is 180 days after the date on which a man-  
3 agement contract or other gaming-related contract is sub-  
4 mitted to the Commission for approval, the Commission  
5 shall approve or disapprove such contract on its merits.  
6 The Commission may extend the 180 day period by not  
7 more than 90 days if the Commission notifies the Indian  
8 tribe in writing of the reason for the extension of time.  
9 The Indian tribe may bring an action in a Federal district  
10 court to compel action by the Commission if a contract  
11 has not been approved or disapproved within the period  
12 required by this subsection.

13       “(f) CONTRACT MODIFICATIONS AND VOID CON-  
14 TRACTS.—The Commission, after notice and hearing, shall  
15 have the authority to require appropriate contract modi-  
16 fications or may void any contract if it determines that  
17 any of the provisions of this Act have been violated.

18       “(g) INTERESTS IN REAL PROPERTY.—No contract  
19 regulated by this Act shall transfer or, in any other man-  
20 ner, convey any interest in land or other real property,  
21 unless specific statutory authority exists and such transfer  
22 or conveyance is clearly specified in the contract.

23       “(h) AUTHORITY OF THE SECRETARY.—The author-  
24 ity of the Secretary under section 2103 of the Revised



1 Statutes (25 U.S.C. 81) does not extend to any contracts  
2 which are regulated pursuant of this Act.

3 “(i) DISAPPROVAL OF CONTRACTS.—The Commis-  
4 sion shall not approve any contract if it determines that—

5 “(1) any person having a direct financial inter-  
6 est in, or management responsibility for, such con-  
7 tract, and, in the case of a corporation, those indi-  
8 viduals who serve on the board of directors of such  
9 corporation and each of its stockholders who hold  
10 (directly or indirectly) 10 percent or more of its is-  
11 sued and outstanding stock—

12 “(A) is an elected member of the governing  
13 body of the Indian tribe which is the party to  
14 the contract;

15 “(B) has been or subsequently is convicted  
16 of any felony or gaming offense;

17 “(C) has knowingly and willfully provided  
18 materially important false statements or infor-  
19 mation to the Commission or the Indian tribe  
20 pursuant to this Act or has refused to respond  
21 to questions propounded by the Commission; or

22 “(D) has been determined to be a person  
23 whose prior activities, criminal record, if any, or  
24 reputation, habits, and associations pose a  
25 threat to the public interest or to the effective

1 regulation and control of gaming, or create or  
 2 enhance the dangers of unsuitable, unfair, or il-  
 3 legal practices, methods, and activities in the  
 4 conduct of gaming or the carrying on of the  
 5 business and financial arrangements incidental  
 6 thereto;

7 “(2) the contractor has, or has attempted to,  
 8 unduly interfere or influence for its gain or advan-  
 9 tage any decision or process of tribal government re-  
 10 lating to the gaming activity;

11 “(3) the contractor has deliberately or substan-  
 12 tially failed to comply with the terms of the contract;  
 13 or

14 “(4) a trustee, exercising the skill and diligence  
 15 that a trustee is commonly held to, would not ap-  
 16 prove the contract.”.

17 (11) Section 12 of the Act (25 U.S.C. 2711) is  
 18 amended to read as follows:

19 **“SEC. 12. REVIEW OF EXISTING COMPACTS AND CON-**  
 20 **TRACTS; INTERIM AUTHORITY.**

21 “(a) REVIEW OF EXISTING COMPACTS.—(1) At any  
 22 time after the Commission authorized by the Indian Gam-  
 23 ing Regulatory Act Amendments Act has been sworn in  
 24 and regulations have been promulgated for the implemen-  
 25 tation of the Act as amended, the Commission shall notify

1 each Indian tribe and state which, prior to the enactment  
2 of the Indian Gaming Regulatory Act Amendments Act,  
3 entered into a compact that was approved by the Sec-  
4 retary, that the compact must be submitted to the Com-  
5 mission for its review within 60 days of such notification.  
6 Any such compact shall be valid under this Act and shall  
7 remain in full force and effect in accordance with its  
8 terms, unless the Commission determines that the regu-  
9 latory and licensing provisions of the compact fail to meet  
10 the requirements of this Act and any regulations promul-  
11 gated by the Commission.

12 “(2) If the Commission should determine that a com-  
13 pact fails to meet the regulatory and licensing require-  
14 ments of this Act and any regulations promulgated by the  
15 Commission, then the Commission shall so notify the In-  
16 dian tribe and the State and the Commission shall provide  
17 for the direct regulation and licensing of the gaming ac-  
18 tivities authorized by such compact pursuant to this Act  
19 until such time as the Indian tribe or the Indian tribe and  
20 the State have developed regulations and licenses to gov-  
21 ern the gaming activity which meet or exceed the require-  
22 ments imposed by this Act and any regulations promul-  
23 gated by the Commission.

24 “(b) REVIEW OF EXISTING CONTRACTS.—(1) At any  
25 time after the Commission authorized by the Indian Gam-

1 ing Regulatory Act Amendments Act is sworn in and pro-  
2 mulgated regulations for the implementation of the Act  
3 as amended, the Commission shall notify each Indian tribe  
4 and management contractor who, prior to the enactment  
5 of the Indian Gaming Regulatory Act Amendments Act,  
6 entered into a management contract that was approved  
7 by the Secretary, that such contract, including all collat-  
8 eral agreements relating to the gaming activity, must be  
9 submitted to the Commission for its review within 60 days  
10 of such notification. Any such contract shall be valid under  
11 this Act, unless it is disapproved by the Commission under  
12 this section.

13 “(2)(A) Within 180 days after the submission of a  
14 management contract, including all collateral agreements,  
15 pursuant to this section, the Commission shall subject  
16 such contract to the requirements and procedures under  
17 section 11 of this Act.

18 “(B) If the Commission determines that a manage-  
19 ment contract submitted under this section meets the re-  
20 quirements of section 11, and the management contractor  
21 obtains all of the required licenses, the Commission shall  
22 approve the management contract.

23 “(C) If the Commission determines that a contract  
24 submitted under this section does not meet the require-  
25 ments of section 11, then the Commission shall provide

1 written notification to the parties to such contract of the  
2 necessary modifications and the parties shall have 180  
3 days to make the modifications.

4 “(c) INTERIM AUTHORITY OF THE NATIONAL INDIAN  
5 GAMING COMMISSION.—Notwithstanding any other provi-  
6 sion of this Act, the Secretary and the Chairman and the  
7 associate members of the National Indian Gaming Com-  
8 mission who are holding office on the date of enactment  
9 of the Indian Gaming Regulatory Act Amendments Act  
10 shall continue to exercise those authorities vested in them  
11 by the Act until such time as the members of the Commis-  
12 sion authorized by the Act as amended are sworn into of-  
13 fice. The Commission authorized by the Act as amended  
14 shall exercise all of the authority conferred on it by the  
15 Act as amended and shall enforce all of the regulations  
16 previously promulgated under the act until the same are  
17 revised or superseded by regulations promulgated by the  
18 Commission to implement the Act as amended.”.

19 (12) Section 13 of the Act (25 U.S.C. 2712) is re-  
20 pealed.

21 (13) Section 143 of the Act (25 U.S.C. 2713) is re-  
22 designated as section 13 and is amended to read as fol-  
23 lows:

1   **“SEC. 13. CIVIL PENALTIES.**

2           “(a) AMOUNT.—Any person who commits any act or  
3 causes to be done any act that violates any provision of  
4 this Act or the rules or regulations promulgated there-  
5 under, or omits to do any act or causes to be omitted any  
6 act that is required by any provision or such rule or regu-  
7 lation shall be subject to a civil penalty not to exceed  
8 \$50,000 per day for each such violation.

9           “(b) ASSESSMENT AND COLLECTION.—Any civil pen-  
10 alty under this section shall be assessed by the Commis-  
11 sion and collected in a civil action brought by the Attorney  
12 General on behalf of the United States. Before referral  
13 of civil penalty claims to the Attorney General, civil pen-  
14 alties may be compromised by the Commission after af-  
15 fording the person charged with a violation of this Act,  
16 or the rules or regulations promulgated by the Commission  
17 an opportunity to present views and evidence in support  
18 thereof to establish that the alleged violation did not  
19 occur. In determining the amount of such penalty, the  
20 Commission shall take into account the nature, cir-  
21 cumstances, extent, and gravity of the violation committed  
22 and, with respect to the person found to have committed  
23 such violation, the degree of culpability, any history or  
24 prior violations, ability to pay, the effect on ability to con-  
25 tinue to do business, and such other matters as justice  
26 may require.

1       “(c) TEMPORARY CLOSURES.—(1) The Commission  
2 may order the temporary closure of all or part of an In-  
3 dian gaming operation for substantial violations of the  
4 provisions of this Act or rules or regulations promulgated  
5 by the Commission.

6       “(2) Not later than 30 days after the issuance of an  
7 order of temporary closure, the Indian tribe or the individ-  
8 ual owner of a gaming operation shall have the right to  
9 request a hearing before the Commission to determine  
10 whether such order should be made permanent or dis-  
11 solved. A hearing shall be conducted within 30 days after  
12 the request for a hearing and a final decision shall be ren-  
13 dered 30 days after the completion of the hearing.”.

14       (14) Section 15 of the Act (25 U.S.C. 2714) is redes-  
15 igned as section 14 and is amended to read as follows:

16       **“SEC. 14. JUDICIAL REVIEW.**

17       “Decisions made by the Commission pursuant to sec-  
18 tions 7, 8, 9, 10, 11, 12, and 13 shall be final agency  
19 decisions for purposes of appeal to the appropriate Federal  
20 district court pursuant to chapter 7 of title 5.”.

21       (15) Section 16 of the Act (25 U.S.C. 2715) is re-  
22 pealed.

23       (16) Section 17 of the Act (25 U.S.C. 2716) is re-  
24 pealed.

1       (17) Section 18 of the Act (25 U.S.C. 2717) is redes-  
2   ignated as section 15 and is amended to read as follows:

3   **“SEC. 15. COMMISSION FUNDING.**

4       “(a) ANNUAL FEES.—(1) The Commission shall es-  
5   tablish a schedule of fees to be paid to the Commission  
6   annually by each Class II and Class III gaming activity  
7   that is regulated by this Act.

8       “(2) The rate of the fees imposed under the schedule  
9   established under paragraph (1) shall be no less than 0.5  
10   percent nor more than 2 percent of the gross revenues  
11   of each gaming operation regulated by this Act.

12       “(3) The Commission, by a vote of a majority of its  
13   members, shall annually adopt the rate of the fees author-  
14   ized by this section which shall be payable to the Commis-  
15   sion on a monthly basis.

16       “(4) The fees to be paid by a gaming operation may  
17   be adjusted downward by the Commission to the extent  
18   that regulatory functions are performed by the tribe or  
19   the tribe and a state, pursuant to regulations promulgated  
20   by the Commission.

21       “(5) Failure to pay the fees imposed under the sched-  
22   ule established under paragraph (1) shall, subject to the  
23   regulations of the Commission, be grounds for revocation  
24   of the approval of the Commission of any license required  
25   under this Act for the operation of gaming activities.



1       “(6) To the extent that revenue derived from fees im-  
2 posed under the schedule established under paragraph (1)  
3 are not expended or committed at the close of any fiscal  
4 year, such surplus funds shall be credited to each gaming  
5 activity on a pro rata basis against such fees imposed for  
6 the succeeding year.

7       “(7) For purposes of this section, gross revenue shall  
8 constitute the annual total amount of money wagered, less  
9 any amounts paid out as prizes or paid for prizes awarded  
10 and less allowance for amortization of capital expenditures  
11 for structures.

12       “(b) REIMBURSEMENT OF COSTS. The Commission  
13 is authorized to assess any applicant, except the governing  
14 body of an Indian tribe, for any license required pursuant  
15 to this Act for the actual costs of conducting all reviews  
16 and investigations necessary to determine whether a li-  
17 cense should be granted or denied pursuant to this Act.

18       “(c)(1) The Commission, in conjunction with the fis-  
19 cal year of the United States, shall adopt an annual budg-  
20 et for the expenses and operation of the Commission.

21       “(2) The budget of the Commission may include a  
22 request for appropriations as authorized by section 16 of  
23 this Act.

24       “(3) A request for appropriations pursuant to para-  
25 graph (2) shall be submitted by the Commission directly

1 to the Congress beginning in the first full fiscal year after  
2 the date of enactment of the Indian Gaming Regulatory  
3 Act Amendments Act.”.

4 (18) Section 19 of the Act (25 U.S.C. 2718) is redes-  
5 ignated as section 16 and is amended to read as follows:

6 **“SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

7 “Subject to the provisions of section 15 of this Act,  
8 there are hereby authorized to be appropriated and to re-  
9 main available until expended, \$5,000,000 to provide for  
10 the operation of the Commission for fiscal years 1996,  
11 1997 and 1998.”.

12 (19) Section 20 of the Act (25 U.S.C. 2719) is redes-  
13 ignated as section 17 and is amended to read as follows:

14 **“SEC. 17. GAMING ON LANDS ACQUIRED AFTER ENACT-**  
15 **MENT OF THIS ACT.**

16 “(a) GAMING PROSCRIBED ON LANDS ACQUIRED IN  
17 TRUST.—Except as provided in subsection (b), gaming  
18 regulated by this Act shall not be conducted on lands ac-  
19 quired by the Secretary in trust for the benefit of an In-  
20 dian tribe after the date of enactment of this Act unless—

21 “(1) such lands are located within or contig-  
22 uous to the boundaries of the reservation of the In-  
23 dian tribe on the date of enactment of this Act; or

24 “(2) the Indian tribe has no reservation on the  
25 date of enactment of this Act and—

1           “(A) such lands are located in Oklahoma  
2           and

3                   “(i) are within the boundaries of the  
4           Indian tribe’s former reservation, as de-  
5           fined by the Secretary, or

6                   “(ii) are contiguous to other land held  
7           in trust or restricted status by the United  
8           States for the Indian tribe in Oklahoma; or

9           “(B) such lands are located in a State  
10          other than Oklahoma and are within the Indian  
11          tribe’s last recognized reservation within the  
12          State or States within which such Indian tribe  
13          is presently located.

14          “(b) EXCEPTIONS.—Subsection (a) will not apply  
15          when—

16               “(1) the Secretary, after consultation with the  
17          Indian tribe and a review of the recommendations,  
18          if any, of the Governor of the State in which such  
19          lands are located, and any other State and local offi-  
20          cials, including officials of other Indian tribes or ad-  
21          jacent States, determines that a gaming establish-  
22          ment would be in the best interest of the Indian  
23          tribe and its members, and would not be detrimental  
24          to the surrounding community; or

25               “(2) lands are taken in trust as part of—

1           “(A) a settlement of a land claim,

2           “(B) the initial reservation of an Indian  
3       tribe acknowledged by the Secretary under the  
4       Federal acknowledgment process, or

5           “(C) the restoration of lands for an Indian  
6       tribe that is restored to Federal recognition.

7       “(3) Subsection (a) shall not apply to—

8           “(A) any lands involved in the trust peti-  
9       tion of the St. Croix Chippewa Indians of Wis-  
10      consin that is the subject of the action filed in  
11      the United States District Court for the Dis-  
12      trict of Columbia entitled St. Croix Chippewa  
13      Indians of Wisconsin v. United States, Civ. No.  
14      86-2278, or

15          “(B) the interests of Miccosukee Tribe of  
16      Indians of Florida in approximately 25 contig-  
17      uous acres of land, more or less, in Dade Coun-  
18      ty, Florida, located within one mile of the inter-  
19      section of State Road Numbered 27 (also  
20      known as Krome Avenue) and the Tamiami  
21      Trial.

22      “(c) AUTHORITY OF THE SECRETARY.—Nothing in  
23      this section shall affect or diminish the authority and re-  
24      sponsibility of the Secretary to take land into trust.

1       “(d) APPLICATION OF THE INTERNAL REVENUE  
2 CODE.—(1) The provisions of the Internal Revenue Code  
3 of 1986 (including sections 1441, 3402(q), 6041, and  
4 chapter 35 of such Code) concerning the reporting and  
5 withholding of taxes with respect to the winnings from  
6 gaming or wagering operations shall apply to Indian gam-  
7 ing operations conducted pursuant to this Act, or under  
8 a compact entered into under Section 10 of this Act that  
9 is in effect, in the same manner as such provisions apply  
10 to State gaming and wagering operations, and any exemp-  
11 tions allowed to States from taxation of such gaming or  
12 wagering operations shall be allowed to Indian tribes.

13       “(2) The provisions of section 60501 of the Internal  
14 Revenue Code of 1986 shall apply to an Indian gaming  
15 establishment not designated by the Secretary of the  
16 Treasury as a financial institution pursuant to chapter 53  
17 of title 31, United States Code.

18       “(3) The provisions of this subsection shall apply not-  
19 withstanding any other provision of law enacted before,  
20 on, or after the date of enactment of this Act unless such  
21 other provision of law specifically cites this subsection.”.

22       (20) Section 21 of the Act (25 U.S.C. 2720) is redes-  
23 igned as section 18.

24       (21) Section 22 of the Act (25 U.S.C. 2721) is redes-  
25 igned as section 19.

1       (22) Section 23 of the Act is redesignated as section  
2 20.

3       (23) Section 24 of the Act is redesignated as section  
4 21.

5       (24) At the end of the Act, add the following new  
6 section 22:

7   **“SEC. 22.**

8       Section 5312(a)(2) of title 31, United States Code,  
9 is amended—

10           “(1) by redesignating subparagraphs (X) and  
11       (Y) as subparagraphs (Y) and (Z) respectively; and

12           “(2) by inserting after subparagraph (W) the  
13       following new subparagraph:

14           “(X) an Indian gaming establishment.”.

○

S 2230 IS—2

S 2230 IS—3

S 2230 IS—4

S 2230 IS—5

S 2230 IS—6

S 2230 IS—7